

Please note: These transcripts are not individually reviewed and approved for accuracy.

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BEFORE THE
CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD
PERMITTING AND ENFORCEMENT COMMITTEE

8

9

IN THE MATTER OF THE:)

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10

PERMITTING AND ENFORCEMENT)

COMMITTEE MEETING)

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14

DATE AND TIME: THURSDAY, JULY 16, 1998
9:30 A.M.

15

16

17

PLACE: BOARD HEARING ROOM
8800 CAL CENTER DRIVE
SACRAMENTO, CALIFORNIA

18

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REPORTER: JAMIE LYNNE OELRICHS, CSR
CERTIFICATE NO. 8086

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APPEARANCES

MR. ROBERT C. FRAZEE, CHAIRMAN
MR. STEVEN R. JONES, MEMBER

STAFF PRESENT

MR. RALPH CHANDLER, EXECUTIVE DIRECTOR
MR. ELLIOT BLOCK, LEGAL COUNSEL
MS. LORI LOPEZ, COMMITTEE SECRETARY

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1 SACRAMENTO, CALIFORNIA: THURSDAY, JULY 16, 1998

2 9:30 A.M.

3

4 CHAIRMAN FRAZEE: THE MEETING WILL COME TO
5 ORDER, PLEASE. THIS IS THE JULY 16TH MEETING OF
6 THE PERMITTING AND ENFORCEMENT COMMITTEE. ALL THE
7 MEMBERS THE COUNCIL CURRENTLY CONSTITUTES ARE
8 PRESENT.

9 DO YOU HAVE ANY EX PARTE COMMUNICATION?

10 MEMBER JONES: THERE WERE NONE OF THEM. I
11 DON'T THINK WE HAVE BUSINESS IN FRONT OF THIS
12 BOARD. OTHER THAN THAT, THIS WAS IT.

13 CHAIRMAN FRAZEE: AND MINE ARE ALL ON THE
14 RECORD.

15 BY WAY OF ANNOUNCEMENTS BEFORE WE GET
16 STARTED ON THE GENERAL DAY, FIRST THE USUAL NOTICE
17 THAT IF ANYONE WISHES TO APPEAR BEFORE THE
18 COMMISSION, THE AGENDAS ARE IN THE REAR, AND IF YOU
19 WOULD FILL OUT ONE OF THOSE.

20 NUMBER TWO, WE HAVE A NEW COURT REPORTER
21 TODAY WHO DOESN'T KNOW ALL THE PLAYERS AND FACES.
22 SO I WOULD ASK THAT BEFORE YOU SPEAK, THAT YOU
23 CLEARLY IDENTIFY YOURSELF FOR THE RECORD.

24 FIRST OF ALL, WE HAVE THE DEPUTY DIRECTOR'S
25 REPORT. AND SUBSTITUTING TODAY IS DON DIER.

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1 MR. DIER: THANK YOU, MR. CHAIRMAN. WE
2 HAVE CERTAIN ITEMS TO REPORT THIS MORNING.

3 FIRST IS THE JOINT WASTE BOARD WATER BOARD
4 TITLE 27 TRAINING STAFF COMPLETED ITS TRAINING ON
5 JULY 9TH. EIGHT VENUES THROUGHOUT THE STATE
6 BROUGHT TOGETHER 250 LEA AND REGIONAL WATER BOARD
7 STAFFS, IN AN EFFORT TO CLARIFY THE LANDFILL
8 DISPOSAL SITING REGULATIONS. EACH SESSION WAS A
9 FULL DAY, COMPLETE WITH LECTURE AND DISCUSSION,
10 FOLLOWED BY BREAKOUT SCENARIOS. THE MAIN GOAL OF
11 THE TRAINING WAS TO ENCOURAGE REGULATORS TO DEVELOP
12 METHODS IN ORDER TO CONVEY A SINGLE MESSAGE WHILE
13 DOING BUSINESS AT LANDFILLS.

14 MANY STAFF GAINED A NEW AWARENESS OF THE
15 SHARED INTEREST AT SITES AND DEVELOPED METHODS AT
16 THE TRAINING THAT WOULD INCREASE COMMUNICATION AND
17 COORDINATION WITH THEIR COUNTERPART AGENCY.

18 TRAINERS ALSO WELCOMED FEEDBACK AND
19 SUGGESTIONS FOR IMPROVEMENT IN THE PROCESS, OR OF
20 ANY ASPECT OF THEIR AGENCY THAT THEIR AGENCY FACES
21 IN REGULATORY OVERSIGHT. IN ALL, THE TRAININGS
22 WERE WELL-RECEIVED, BASED UPON THE COURSE SURVEY
23 RESULTS AND PERSONAL FEEDBACK.

24 THE NEXT STEPS FOR THE TRAINING TEAM
25 INCLUDE CONSIDERING HOW TO GO ABOUT DETERMINING THE

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1 NEED TO CONDUCT INDUSTRY TRAINING ON THE TITLE 27
2 REGULATIONS. THE TEAM WILL ALSO BE FOLLOWING UP ON
3 ISSUES DISCOVERED AT THE EIGHT VENUES.

4 AND I'D LIKE TO ACKNOWLEDGE THE BOARD STAFF
5 THAT WERE INVOLVED IN THE TRAINING, AND THESE
6 INCLUDE MARIE SESSLER, ELISSA KRATZER, DIANE VON
7 THOMAS, RICHARD CASTLE, DARRYL PETKER, MIKE
8 WOCHNICK, SUZANNE HAMBLETON, GEORGIANNE TURNER, AND
9 SHARON ANDERSON, ESPECIALLY, FOR HEADING IT UP, AND
10 MARK DE BIE FOR AN AWFUL LOT OF BEHIND THE SCENES
11 WORK.

12 REGARDING LEA EVALUATIONS, THE LEA
13 EVALUATIONS STAFF HAVE COMPLETED DRAFT REPORTS FOR
14 LEAs IN SANTA CLARA COUNTY AND THE CITY OF WEST
15 COVINA. THE COUNTY OF VENTURA EVALUATION IS
16 UNDERWAY, AND WILL SHORTLY BE FOLLOWED BY THE
17 INITIATION OF EVALUATIONS IN TUOLUMNE, SANTA
18 BARBARA, AND SISKIYOU COUNTIES.

19 AND NOW WE HAVE AN UPDATE ON THE LEA
20 ENFORCEMENT ACTIONS AT STORAGE AND CHIPPING AND
21 GRINDING ACTIVITIES. THIS IS PRESENTED TO THE
22 COMMITTEE ON A QUARTERLY BASIS. AND THERE IS A
23 REPORT ON THIS THAT WAS MADE AVAILABLE, AND WE HAVE
24 COPIES AT THE BACK OF THE ROOM.

25 THERE ARE CURRENTLY 18 ACTIONS UNDER WAY IN

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1 NINE COUNTIES. AS AN UPDATE ON THE PACIFIC
2 SOUTHWEST FARMS FACILITY IN ONTARIO, THE SAN
3 BERNARDINO COUNTY LEA IS PREPARING AN AGENDA ITEM
4 FOR A MEETING OF THE BOARD OF SUPERVISORS FOR AN
5 RFP TO GO OUT TO BID TO CLEAN UP THE SITE.

6 IN ADDITION, A SEPARATE LEGAL ACTION WAS
7 TAKEN BY THE LOCAL PLANNING AGENCY AND THE FIRE
8 DEPARTMENT. THE COURT RULED ON BEHALF OF THE FIRE
9 DEPARTMENT, AND THE OPERATOR WAS FINED. THE COURT
10 PLACED A STAY ON THE PLANNING AGENCY CASE.

11 AND WE HAVE FOR ITEM NUMBER THREE THE SAN
12 BERNARDINO COUNTY LEA HERE, IF YOU HAVE ANY
13 QUESTIONS ON THE STATUS OF THAT ITEM.

14 WITH REGARDS TO THE CITY OF SAN DIEGO LEA,
15 THE CITY'S TEMPORARY CERTIFICATION STATUS CONTINUES
16 TO BE ON TRACK WITH NO PROBLEMS REPORTED BY EITHER
17 THE CITY OR BOARD STAFF.

18 AND THEN WE ALSO -- THE LAST ITEM IS THE
19 REPORT ON DELEGATED ITEMS THAT HAVE BEEN ACTED ON
20 BY THE DEPUTY DIRECTOR, AND THAT REPORT'S BEEN
21 PROVIDED, AND HAS BEEN ITEMIZED.

22 AND IT INCLUDES TWO DELEGATED PERMIT
23 REVISIONS, ONE APPROVAL OF AN LEA ASBESTOS PROGRAM,
24 TWO MINOR WASTE TIRE PERMITS, TEN TIRE ENFORCEMENT
25 ORDERS BEING ISSUED, A CLOSURE FUND DISTRIBUTION

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1 FOR BKK LANDFILL, TWO NOTICES OF VIOLATIONS FOR
2 FINANCIAL ASSURANCES, ONE STIPULATED ORDER FOR THE
3 CITY OF COLFAX WITH REGARD TO FINANCIAL ASSURANCES,
4 AND SEVERAL ITEMS OUT OF THE CLOSURE OF THE
5 MEDIATION BRANCH. APPROVAL OF ONE FINAL PLAN --
6 SEVEN FINAL PLANS, ONE PRELIMINARY PLAN, FOUR
7 CLOSURE CERTIFICATIONS, TWO CLEAN CLOSURE
8 CERTIFICATIONS, ONE POSTCLOSURE LAND USE, AND TEN
9 ALTERNATIVE INSPECTION FREQUENCIES FOR CLOSED
10 ILLEGAL AND ABANDONED SITES.

11 CHAIRMAN FRAZEE: QUESTIONS? NO? OKAY.
12 THANK YOU.

13 NOW WE ARE READY TO PROCEED WITH AGENDA
14 ITEM THREE. THIS IS THE CONSIDERATION OF A REVISED
15 SOLID WASTE FACILITY PERMIT FOR THE VICTORVILLE
16 SANITARY LANDFILL IN SAN BERNARDINO COUNTY. STAFF
17 REPORT?

18 MR. DIER: MR. CHAIRMAN, DIANE OHIOSUMMA OF
19 THE BOARD'S PERMITTING INSPECTION BRANCH, AND CHRIS
20 RAVENSTEIN FROM THE SAN BERNARDINO COUNTY LEA WILL
21 BE MAKING THE PRESENTATION.

22 MS. OHIOSUMMA: GOOD MORNING. THE PROPOSED
23 PERMIT IS TO ALLOW THE FOLLOWING: AN INCREASE IN
24 MAXIMUM DAILY TONNAGE FROM 660 to 1,600, AND AN
25 EXPANSION OF THE DESIGN CAPACITY, AND AN EXTENSION

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1 OF THE ESTIMATED CLOSURE DATE FROM 1999 to 2005.

2 AN INCREASE IN THE DAILY LEVEL OF TRAFFIC
3 AT THE FACILITY FROM 295 TO 600 VEHICLES.

4 THE VICTORVILLE SANITARY LANDFILL IS
5 LOCATED ON LAND OWNED BY BLM, AND OPERATED BY THE
6 COUNTY OF SAN BERNARDINO WASTE SYSTEM DIVISION.
7 THE CONTRACT OPERATOR IS NORCAL. AT THE TIME THIS
8 ITEM WAS PREPARED, STAFF REVIEW OF THE PERMIT
9 APPLICATION PACKAGE HAD NOT BEEN COMPLETED, AND
10 THUS THE COMMITTEE ITEM DID NOT INCLUDE STAFF
11 RECOMMENDATION ON THE PROPOSED PERMIT.

12 BOARD STAFF HAS NOW COMPLETED OUR REVIEW OF
13 THE PROPOSED PERMIT AND SUPPORTING DOCUMENTS, AND
14 HAVE DETERMINED THAT SINCE THE BOARD APPROVED THE
15 INTEGRATED WASTE MANAGEMENT PLAN FOR THE COUNTY OF
16 SAN BERNARDINO IN NOVEMBER OF 1997, THE PROPOSED
17 EXPANSION OF THE LANDFILL IS CONSISTENT WITH THE
18 COUNTY SITING ELEMENT, AND THEREFORE IN COMPLIANCE
19 WITH THE PRC SECTION 50001.

20 THAT THE PROPOSED DESIGN AND OPERATION OF
21 THE FACILITY AS DESCRIBED IN THE SUBMITTED JOINT
22 TECHNICAL DOCUMENT WOULD ALLOW FOR FACILITY
23 OPERATIONS IN COMPLIANCE WITH THE STATE MINIMUM
24 STANDARDS FOR SOLID WASTE DISPOSAL, AND THAT CEQA
25 HAD BEEN COMPLIED WITH.

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1 IN CONCLUSION, STAFF RECOMMENDS THAT THE
2 BOARD ADOPT SOLID WASTE FACILITY PERMIT DECISION
3 NUMBER 98-250, CONCURRING WITH THE ISSUANCE OF THE
4 SOLID WASTE FACILITY PERMIT NUMBER 36-AA-0045.

5 LEA REPRESENTATIVE CHRISTOPHER RAVENSTEIN,
6 AND THE OPERATORS' REPRESENTATIVE PAT GALLAGHER,
7 ARE HERE, IF YOU HAVE ANY QUESTIONS THAT YOU MAY
8 HAVE ON THE ITEM.

9 MS. TOBIAS: MR. FRAZEE, I HAVE A QUESTION
10 FROM STAFF.

11 COULD YOU GO OVER, I PERHAPS MISSED THIS,
12 BUT I DIDN'T HEAR WHAT YOU SAID ABOUT THE CEQA
13 COVERAGE. I HEARD YOU SAY THAT THEY HAD DETERMINED
14 THAT IT WAS ADEQUATE. BUT I'D LIKE FOR THE RECORD,
15 SINCE WE'RE ACTING AS A RESPONSIBLE AGENCY, ALONG
16 WITH THE LEA, I'D LIKE YOU TO JUST GO OVER ON THE
17 RECORD WHAT THE COMPLIANCE WAS. DO WE HAVE THAT?

18 MS. OHIOSUMMA: COULD YOU GIVE ME JUST A
19 MINUTE?

20 MS. TOBIAS: SURE. OR MAYBE THE LEA HAS
21 THAT INFORMATION. NO?

22 MR. RAVENSTEIN: I'M NOT EXACTLY SURE WHAT
23 IT IS YOU'RE ASKING FOR.

24 MS. TOBIAS: DID YOU DO A NEG-DEC ON IT OR
25 AN EIR?

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1 MR. RAVENSTEIN: IT WAS A MITIGATED
2 NEGATIVE DEC.

3 MS. TOBIAS: OKAY. AND WHAT WAS THE DATE
4 OF THE MITIGATED NEG DEC? I GUESS, THAT'S WHAT I
5 THINK WE NEED FOR THE RECORD IS WHAT THE CEQA
6 COMPLIANCE WAS. SO IF DIANE'S GETTING THAT, THAT'S
7 FINE.

8 MS. OHIOSUMMA: I DO NOT HAVE THE DATE OF
9 THE MITIGATED NEGATIVE DEC. BUT THE DOCUMENT THAT
10 WAS REVIEWED AND CITED, THE CEQA DOCUMENT, I DO
11 HAVE THE NUMBER FOR IT, IF THAT'S WHAT -- IS THAT
12 OKAY?

13 MS. TOBIAS: SURE. WHY DON'T YOU PUT THAT
14 IN THERE. AND THAT'S IN THE --

15 MS. OHIOSUMMA: THE CLEARING HOUSE NUMBER?

16 MS. TOBIAS: SURE.

17 MS. OHIOSUMMA: THE CLEARING HOUSE NUMBER
18 IS 98031162.

19 MS. TOBIAS: SO THAT'S A MARCH, 1998
20 DOCUMENT, ANYWAY. THAT'S FINE.

21 MS. OHIOSUMMA: IT IS A '98 DOCUMENT.

22 DID YOU HAVE ANYTHING ELSE, LEA?

23 MR. RAVENSTEIN: THE OPR FILING DATE WAS
24 JULY 7TH, 1998.

25 MS. TOBIAS: OKAY. I JUST WANTED TO MAKE

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1 SURE IT WAS A CURRENT DOCUMENT. THANK YOU.

2 CHAIRMAN FRAZEE: THANK YOU. OKAY. NOW,

3 ANY QUESTIONS?

4 MEMBER JONES: MR. CHAIRMAN, I MAKE A

5 MOTION THAT WE MOVE RESOLUTION 98-250 FOR

6 CONCURRENCE WITH THE CONSIDERATION OF THE REVISED

7 SOLID WASTE FACILITY PERMIT FOR VICTORVILLE

8 SANITARY LANDFILL IN SAN BERNARDINO COUNTY.

9 CHAIRMAN FRAZEE: WE HAVE A MOTION, AND I

10 WILL SECOND ON RESOLUTION 98-250.

11 SECRETARY WILL CALL THE ROLL, PLEASE.

12 THE SECRETARY: BOARDMEMBER JONES.

13 MEMBER JONES: AYE.

14 THE SECRETARY: CHAIRMAN FRAZEE.

15 CHAIRMAN FRAZEE: AYE.

16 MOTION IS CARRIED. ANY OBJECTION TO

17 CONSENT ON THIS?

18 MEMBER JONES: NO.

19 CHAIRMAN FRAZEE: WE WILL RECOMMEND THIS

20 ITEM FOR CONSENT OF THE FULL BOARD.

21 NOW WE'RE READY FOR AGENDA ITEM FOUR. THIS

22 IS THE CONSIDERATION OF OPTIONS RELATING TO THE

23 IMPLEMENTATION OF THE PERMIT CONSOLIDATION ZONE

24 PILOT PROGRAM, OTHERWISE KNOWN AS SB 1299 PEACE

25 1995.

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1 MR. DIER: MR. CHAIRMAN, SUZANNE HAMBLETON
2 OF THE PERMITTING INSPECTION BRANCH WILL MAKE THIS
3 PRESENTATION.

4 MS. HAMBLETON: GOOD MORNING. THIS AGENDA
5 ITEM SUMMARIZES THE PERMIT CONSOLIDATION ZONE PILOT
6 PROGRAM, AND REQUESTS THAT ULTIMATELY THE BOARD
7 CONSIDER ONE OF THE OPTIONS THAT WILL BE DESCRIBED
8 LATER.

9 THE STATUTE WAS SIGNED IN 1995.
10 REGULATIONS WERE PROMULGATED IN THE SPRING OF
11 1997. IN DECEMBER OF 1997, REPRESENTATIVES FROM
12 TRADE AND COMMERCE AND CAL/EPA BOARDS AND
13 DEPARTMENTS WERE ASKED TO ASSIST WITH THE
14 IMPLEMENTATION OF THE PROGRAM. THE PILOT PROGRAM
15 IS INTENDED TO STREAMLINE CALIFORNIA'S
16 ENVIRONMENTAL PERMITTING PROCESS, WHILE PRESERVING
17 CALIFORNIA'S COMMITMENT TO A SAFE AND HEALTHFUL
18 ENVIRONMENT.

19 THE MAJOR COMPONENTS OF SB99 ARE THE
20 CREATION OF PERMIT CONSOLIDATION ZONES AND THE
21 ALLOWANCE OF A SINGLE FACILITY COMPLIANCE PLAN IN
22 LIEU OF EXISTING ENVIRONMENTAL PERMITS FOR NEW AND
23 EXPANDING FACILITIES.

24 THE PERMIT CONSOLIDATION ZONE PILOT PROGRAM
25 IS IN EFFECT UNTIL THE YEAR 2002, UNLESS ANOTHER

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1 PIECE OF LEGISLATION DELETES OR EXTENDS THE TIME
2 FRAME.

3 THE PERMIT CONSOLIDATION ZONE IS A
4 GEOGRAPHIC AREA, CONTINUOUS OR NON-CONTINUOUS,
5 DESIGNATED WITHIN A JURISDICTION OF A CITY OR
6 CITIES OR A COUNTY OR COUNTIES, OR BOTH. THE
7 APPROVAL OF THE ZONE IS BASED ON A RECOMMENDATION
8 BY A REVIEW PANEL. THE PERMIT CONSOLIDATION ZONE
9 SPECIFIES THE TYPES OF FACILITIES THAT ARE ELIGIBLE
10 TO OPERATE UNDER THE AUTHORITY OF THE FACILITY
11 COMPLIANCE PLAN. WITHIN A ZONE, A ZONE
12 ADMINISTRATOR IS DESIGNATED AND RESPONSIBLE FOR
13 ADMINISTRATION OF THE PROGRAM.

14 CURRENTLY THERE ARE FOUR APPLICATIONS TO
15 ESTABLISH PERMIT CONSOLIDATION ZONES THAT HAVE BEEN
16 SUBMITTED TO CAL/EPA. THE COUNTY OF FRESNO, THE
17 CITY OF BAKERSFIELD, THE COUNTY OF KERN, MINUS THE
18 CITY OF BAKERSFIELD, AND THE CITIES OF SOUTHERN
19 ORANGE COUNTY. THESE APPLICATIONS ARE PENDING
20 APPROVAL, BASED ON THE SUBMITTAL OF SIGNED
21 AGREEMENTS.

22 WITHIN A DESIGNATED ZONE, THE PROJECT
23 APPLICANT WITH A NEWER EXPANDING FACILITY COULD
24 VOLUNTARILY OPT TO SUBSTITUTE A FACILITY COMPLIANCE
25 PLAN IN LIEU OF EXISTING ENVIRONMENTAL PERMITS.

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1 THE FACILITY COMPLIANCE PLAN MUST MEET THE
2 REQUIREMENTS OF ALL INDIVIDUAL PERMITS THAT WOULD
3 OTHERWISE BE REQUIRED.

4 THE PLAN DOES NOT AGGREGATE THE CALIFORNIA
5 ENVIRONMENTAL QUALITY ACT, AND HAS A REVIEW PROCESS
6 WHERE INDIVIDUAL AGENCIES DETERMINE THE ADEQUACY
7 AND COMPLETENESS OF THE PLAN WITHIN 45 DAYS OF
8 RECEIPT.

9 HOWEVER, THERE HAS BEEN ADDITIONAL LANGUAGE
10 THAT HAS BEEN ADDED TO THE MODEL AGREEMENT THAT
11 PROVIDES FOR SUBMITTAL OF A DRAFT PLAN, AND THE
12 DETERMINATION OF COMPLETENESS AND ADEQUACY AT THE
13 STAFF LEVEL BEFORE THE OFFICIAL TIME LINE
14 COMMENCES.

15 THE PLAN MUST PROVIDE EQUIVALENT
16 OPPORTUNITY FOR PUBLIC PARTICIPATION, NOTICE, AND
17 ADMINISTRATIVE APPEAL REQUIRED BY THE REVIEW
18 PROCESS THAT WOULD OTHERWISE BE USED. THE 45-DAY
19 TIME FRAME MAY BE WAIVED IF AGREED TO BY THE
20 PARTIES.

21 THERE ARE ABOUT FOUR ISSUES TO CONSIDER.
22 WHICH SOLID WASTE FACILITIES ARE ELIGIBLE FOR THE
23 PILOT PROJECT? DOES THE MODEL AGREEMENT WHICH IS
24 INTENDED TO REPRESENT AND DESCRIBE THIS BOARD, AS
25 WELL AS OTHER STATE AND LOCAL ENVIRONMENTAL

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1 PERMITTING AGENCIES' COMMITMENT TO PARTICIPATE IN
2 THE PERMIT CONSOLIDATION ZONE PROGRAM ADDRESS THIS
3 BOARDS' CONCERNS?

4 IF THE BOARD DECIDES TO ALLOW THE
5 STANDARDIZED AND FULL PERMIT TIER ON A CASE-BY-CASE
6 BASIS, HOW WOULD THIS BE HANDLED? WHAT IS THE
7 BOARDS' RULE IN THE APPROVAL OF THE FACILITY
8 COMPLIANCE PLAN?

9 WE COULD PROBABLY DISCUSS THE PERMITS THAT
10 ARE ELIGIBLE AND THE AGREEMENT, PRETTY MUCH
11 TOGETHER. CURRENTLY THE REGISTRATION PERMIT IS
12 IDENTIFIED AS ACCEPTABLE FOR THE PILOT PROGRAM, AND
13 THE STANDARDIZED AND FULL PERMIT TIERS ARE LISTED
14 AS ELIGIBLE ON A CASE-BY-CASE BASIS.

15 IN TERMS OF THE AGREEMENT, THE AGREEMENT
16 MUST BE A BINDING BY THE PARTIES, AND IT MUST
17 IDENTIFY THE PERMITS THAT ARE SUBSTITUTED WITH THE
18 FACILITY COMPLIANCE PLAN AND IDENTIFY THE APPEAL
19 PROCESS USED IF THE PLAN APPLICANT WERE TO APPEAL A
20 DECISION.

21 IN TERMS OF THE APPEAL PROCESS, THE WASTE
22 BOARD CURRENTLY HAS A TWO-PRONG OR TWO-PHASE APPEAL
23 PROCESS WHEREBY AN APPEAL FIRST GOES TO THE LOCAL
24 HEARING PANEL, AND THEN IT -- WHICH TAKES
25 APPROXIMATELY, AT A MINIMUM, 70 TO 75 DAYS, AND

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1 THEN IT CAN BE APPEALED TO THE BOARD, WHICH IS AN
2 ADDITIONAL 90 DAYS.

3 IN THE 1299 STATUTE, THERE'S TWO DIFFERENT
4 AREAS WHERE APPEALS ARE ADDRESSED. AND IN ONE
5 AREA, IT SAYS THAT THE APPEAL PROCESS SHOULD BE THE
6 SAME AS THE CURRENT ENVIRONMENTAL AGENCIES ARE
7 ALREADY USING, AND IN ANOTHER AREA IT TALKS ABOUT
8 THE APPEAL PROCESS MUST BE FINISHED WITHIN 60
9 DAYS. SO STAFF IS CURRENTLY WORKING ON SOME
10 LANGUAGE THAT WOULD BE SUBMITTED TO CAL/EPA TO
11 ALLOW AN EXTENDED TIME FRAME TO ALLOW FOR OUR
12 PROCESS, WHICH IS MORE THAN 60 DAYS.

13 I DON'T KNOW IF YOU WANT TO HAVE THE
14 DISCUSSION NOW ABOUT WHICH PERMITS WOULD BE
15 ELIGIBLE, OR IF I SHOULD GO ON TO MY OTHER
16 QUESTIONS AND DISCUSSION.

17 CHAIRMAN FRAZEE: WHY DON'T YOU JUST --

18 MS. HAMBLETON: KEEP GOING?

19 CHAIRMAN FRAZEE: YES.

20 MS. HAMBLETON: OKAY. IF THE BOARD DECIDES
21 TO ALLOW A FULL -- STANDARDIZED AND FULL PERMIT ON
22 A CASE-BY-CASE BASIS, HOW EXACTLY IS THIS HANDLED?
23 WOULD THE BOARD PREFER THAT EACH CASE BE BROUGHT IN
24 FRONT OF IT? WOULD THE BOARD LIKE TO DISCUSS THE
25 POSSIBILITY OF JUST HAVING CERTAIN LANDFILL -- FOR

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1 EXAMPLE, LANDFILL EXPANSIONS, OR NEW LANDFILLS BE
2 ELIGIBLE, OR YOU KNOW, NOTHING BE ELIGIBLE? COULD
3 THIS BE DELEGATED JUST TO THE COMMITTEE? COULD IT
4 BE DELEGATED TO THE EXECUTIVE OFFICE? THOSE ARE
5 SOME OF THE IDEAS.

6 IN TERMS OF THE BOARDS' RULE ON THE
7 APPROVAL OF THE FACILITY COMPLIANCE PLAN, I
8 DESCRIBED THE PROCESS WHERE A DRAFT PLAN WOULD BE
9 ARRIVING, AND STAFF WOULD BE REVIEWING IT
10 CONCURRENTLY WITH THE LEA. ONE STAFF HAD
11 DETERMINED THAT IT WAS ADEQUATE, THEN THERE WOULD
12 BE THE ACTUAL 45-DAY PROCESS WOULD START, AND THAT
13 WOULD BE AN OPPORTUNITY FOR THE BOARD TO ACT,
14 CONCUR ON IT, IF THEY SO DESIRED, OR IT'S POSSIBLE
15 THAT THIS ALSO COULD BE DELEGATED.

16 IN TERMS OF OPTIONS FOR THE BOARD, I THINK
17 WHAT WE'RE LOOKING FOR, ULTIMATELY, IS THAT THE
18 BOARD DETERMINE WHICH PERMITS WOULD BE ELIGIBLE FOR
19 THE PROGRAM AND TO GO AHEAD AND AUTHORIZE THE
20 SIGNING OF THE AGREEMENT. AND THE BOARD CAN MODIFY
21 THE OPTIONS, OR YOU DON'T HAVE TO TAKE AN ACTION.
22 AND THAT'S ALL I HAVE TO SAY.

23 CHAIRMAN FRAZEE: NOW, THIS DEALS ONLY WITH
24 STATE ISSUE PERMITS?

25 MS. HAMBLETON: ACTUALLY, NO. THIS COULD

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1 DEAL WITH -- IF THERE WERE LOCAL ENVIRONMENTAL
2 PERMITS, IT COULD BE INCLUDED IN THIS PROGRAM,
3 ALTHOUGH I DON'T HAVE ANY EXAMPLES OF WHAT THOSE
4 WOULD BE.

5 CHAIRMAN FRAZEE: WHAT ABOUT LOCAL LAND USE
6 DECISIONS?

7 MS. HAMBLETON: NO. LOCAL LAND USE
8 DECISIONS WOULD TAKE PLACE BEFORE THIS PROGRAM
9 BEGAN. WELL, INCLUDING CEQA.

10 CHAIRMAN FRAZEE: INCLUDING CEQA?

11 MS. HAMBLETON: YES.

12 CHAIRMAN FRAZEE: SO CEQA MUST BE COMPLETE
13 BEFORE --

14 MS. HAMBLETON: WELL, THE LAW -- THE
15 STATUTE DOESN'T SAY IT MUST BE COMPLETE, BUT IT
16 REALLY -- WE'RE TELLING THE APPLICANTS OR THE
17 PEOPLE THAT ARE INTERESTED IN THE PROGRAM THAT IT
18 COULDN'T REALLY START UNLESS IT WAS COMPLETE. BUT
19 THE STATUTE DOESN'T ACTUALLY STATE THAT. IT JUST
20 STATES THAT IF YOU WERE A DISCRETIONARY AGENCY
21 PRIOR TO THIS PROCESS, YOU WOULD STILL REMAIN A
22 DISCRETIONARY AGENCY.

23 CHAIRMAN FRAZEE: QUESTIONS?

24 MEMBER JONES: UNFORTUNATELY, MR. CHAIRMAN,
25 I HAVE A LOT OF QUESTIONS ON THIS. BUT I DON'T

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1 KNOW IF IT MAKES SENSE TO GO THROUGH THEM ALL NOW,
2 OR GO THROUGH THEM AT THE BOARD MEETING. BECAUSE
3 I'VE BEEN TALKING WITH CAL/EPA. I MEAN, THE APPEAL
4 PROCESS THAT I READ IN THIS THING IS THE APPEAL OF
5 A FINDING OF NONCONFORMANCE WITH THE COMPLIANCE
6 PLAN. IS THE 60-DAY APPEAL PROCESS WHERE IF AN
7 OPERATOR WRITES A PLAN, COMES TO US, WE SAY IT IS
8 NOT, YOU KNOW, IT DOESN'T CUT THE MUSTARD, THEN
9 THAT APPEAL IS 60 DAYS, OR A DECISION BASED ON
10 THAT.

11 WHAT I WORRY ABOUT IS THE AB59 REMEDY. AND
12 I ALSO WORRY ABOUT LEA'S OPPORTUNITIES TO PUT
13 CONDITIONS ON. BECAUSE WHAT THIS PLAN IS, IS THE
14 BURDEN IS ON THE OPERATOR TO DEVELOP WHAT WOULD BE
15 A PLAN THAT SHOULD CONSIDER ALL OF THOSE ITEMS.
16 AND I SHOULD LOVE THIS. I REALLY SHOULD LOVE THIS
17 THING.

18 BUT I HAVE A PROBLEM WITH, IT DOESN'T LOOK
19 TO ME LIKE THIS AGREEMENT, OR THAT THIS STATUTE
20 TAKES INTO CONSIDERATION OUR PROCESS, THAT AN RSI,
21 WHICH IS A PLAN OF OPERATION, IT DETAILS HOW YOU
22 ARE GOING TO OPERATE, WHAT YOUR HOURS ARE GOING TO
23 BE, HOW MANY CARS ARE GOING TO COME IN, ALL THOSE
24 THINGS ARE PART OF THE SUPPORT TO GET A PERMIT FROM
25 US.

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1 SO I DON'T HAVE ANY PROBLEM WITH THAT. BUT
2 IT'S THAT REPORT THAT IS USED BY THE LEA TO ISSUE
3 THE CONDITIONS THAT YOU'RE GOING TO OPERATE BY. I
4 DON'T SEE -- NOW, I KNOW THAT AFTER THE PLAN GOES
5 IN, ANY AGENCY CAN ATTACH CONDITIONS. THAT'S AFTER
6 THE PLAN HAS BEEN SUBMITTED. AND WHAT I'M
7 WONDERING ON TIME IS, DOES THAT GIVE THE LEA THE
8 ABILITY TO ATTACH CONDITIONS AS TO HOW THEY'RE
9 GOING TO OPERATE?

10 AND I THINK THAT A BIG PART OF THAT IS AB59
11 APPEALS ARE BASED ON -- USUALLY ON THE ENFORCEMENT
12 OF THOSE CONDITIONS, AND OF THE STATE MINIMUM
13 STANDARDS. SO IF WE DON'T INCLUDE THEM, THEN HOW
14 DO WE -- YOU KNOW. HOW DOES THAT HAPPEN? SO I
15 STILL NEED TO GET SOME HELP ON THAT.

16 I DON'T HAVE ANY PROBLEM WITH TURNING OVER
17 REGISTRATION, BECAUSE REGISTRATION IS A COMPLIANCE
18 PLAN. BUT I THINK THAT THE OTHERS NEED TO BE
19 CASE-BY-CASE, DEPENDING UPON WHAT THE ISSUES ARE,
20 DEPENDING ON JUST WHAT NEEDS TO BE DONE.

21 I ALSO -- WE HAVE TO FIGURE OUT A WAY TO
22 EXPLAIN -- WE HAVE EXHIBIT C HERE WHICH SAYS HERE
23 THE APPEAL PROCESS. AND ON OUR WASTE BOARD HERE,
24 WE'VE IDENTIFIED OUR AB59 APPEALS PROCESS. I DON'T
25 KNOW HOW THAT TIES TO A COMPLIANCE PLAN. I DON'T

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1 KNOW IF THERE'S A LINKAGE TO THE COMPLIANCE PLAN.
2 SO THAT WOULD BE AN ISSUE THAT I WANT TO GET A
3 DEFINITIVE ANSWER ON. BECAUSE IF A FACILITY IS IN
4 A JURISDICTION THAT IS A ZONE, AND IT IS LESS
5 STRINGENT TO OPERATE IN THAT ZONE, AS OPPOSED TO
6 THE NEIGHBORHOOD, WHICH JUST BECAUSE OF CONDITIONS
7 THAT CAN BE PUT ON, I DON'T WANT TO CREATE THAT
8 UNEQUAL ENVIRONMENTAL PROTECTION.

9 SO I'M NOT CONVINCED YET THAT ALL THAT HAS
10 BEEN ADDRESSED. THE CONCEPT OF CONSOLIDATING THE
11 WORK, I DON'T HAVE ANY PROBLEM WITH. I THINK THAT
12 MAKES SENSE. BUT SOMEHOW, I'M JUST NOT SURE ABOUT
13 THE CONDITIONS. BECAUSE IT APPEARS TO ME THAT THEY
14 COME AFTER THE FACT, NOT DURING THE PROCESS.

15 AND I HAVE A COUPLE OF OTHER ITEMS THAT
16 ARE -- YOU KNOW.

17 MS. HAMBLETON: DO YOU WANT ME TO TRY AND
18 ADDRESS YOUR CONCERNS NOW?

19 MEMBER JONES: SURE.

20 MS. HAMBLETON: OKAY. WELL, I CAN ADDRESS
21 A FEW OF THEM. IN TERMS OF THE CONDITIONS, WHAT
22 THE PLAN APPLICANT WOULD BE PROVIDING IS ALL THE
23 INFORMATION THAT THEY WOULD NORMALLY BE PROVIDING
24 IF THEY WERE TO BE GETTING WHATEVER TIER PERMIT
25 THAT WOULD BE, WHETHER IT BE STANDARDIZED OR FULL.

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1 THEY WOULD STILL BE PROVIDING ALL THAT
2 INFORMATION. SO THE RFI INFORMATION WOULD BE
3 PROVIDED.

4 THE DIFFERENCE IS THAT THEY WOULD BE
5 WRITING THEIR OWN CONDITIONS. AND WHEN THE LEA AND
6 THE WASTE BOARD MEET WITH THE PLAN APPLICANT, WE
7 WOULD BE REVIEWING THAT RFI INFORMATION AND THE
8 CONDITIONS. AND AT THAT POINT, WE WOULD HAVE THE
9 OPPORTUNITY TO ADD ANY CONDITIONS THAT WE FELT WERE
10 NECESSARY. THIS WOULD BE OCCURRING BEFORE THE 45
11 DAYS COMMENCED.

12 SO THERE WAS NEW LANGUAGE ADDED, I DON'T
13 BELIEVE YOU HAVE IT NOW, BECAUSE I'M WAITING FOR
14 THE FINAL DRAFT FROM CAL/EPA, THAT THE PLAN WOULD
15 BE REVIEWED COMPLETELY AND DETERMINED ADEQUATE AT
16 STAFF LEVEL BEFORE IT WOULD BE FORWARDED TO BOARDS
17 AND DEPARTMENTS FOR THEIR APPROVAL, WHATEVER THAT
18 MAY BE.

19 MEMBER JONES: WHEN YOU SAY AT STAFF LEVEL,
20 WHAT STAFF? WHOSE STAFF?

21 MS. HAMBLETON: WELL, I'M ASSUMING THAT --

22 MEMBER JONES: DON'T DO THAT.

23 MS. HAMBLETON: OKAY.

24 MEMBER JONES: I MEAN, SERIOUSLY, DON'T
25 ASSUME. BECAUSE IF IT'S EVALUATED AT AN AGENCY

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1 OTHER THAN THIS AGENCY, FOR OUR PORTION OF IT, HOW
2 WOULD THEY KNOW ABOUT GAS? HOW WOULD THEY KNOW
3 ABOUT THOSE OTHER ISSUES?

4 MS. HAMBLETON: WHAT I WAS GOING TO SAY WAS
5 THAT IT WOULD BE WITHIN OUR BRANCH. IF YOU WANT IT
6 TO BE ELEVATED HIGHER THAN THAT, THAT'S DEFINITELY
7 YOUR OPTION.

8 MEMBER JONES: OKAY. I JUST WANTED TO MAKE
9 SURE IT DIDN'T GET ELEVATED -- I MEAN, IT DIDN'T
10 GET EVALUATED AT SOMEWHERE OTHER THAN HERE.

11 MS. HAMBLETON: NO. IT WOULD BE THE WASTE
12 BOARD, IN CONJUNCTION WITH THE LEA.

13 MEMBER JONES: OKAY. MR. FRAZEE HAD ASKED
14 A QUESTION EARLIER ABOUT WOULD THIS BE MULTIPLE
15 STATE AGENCIES. MY ASSUMPTION, I LOOK AT THIS
16 BILL, 1299, THAT IT WAS AN INDUSTRIAL DEVELOPMENT
17 BILL. CLEARLY, IT WAS AT THE END OF A RECESSION.
18 IT WAS TO TRY TO MOVE INDUSTRIAL DEVELOPMENT, TO
19 BRING MORE JOBS AND MORE INDUSTRY TO CALIFORNIA.

20 I DON'T THINK IN MY WILDEST DREAMS, OR
21 PROBABLY SOME OF THE USUAL SUSPECTS, THOUGHT THAT
22 THIS WOULD BE THE CONSOLIDATION OF THE WASTE
23 BOARDS' PERMITTING AUTHORITY.

24 SO I HAVE A DIFFERENT -- I WANT TO MAKE
25 SURE THAT WE ARE NOT GIVING UP OUR AUTHORITY TO

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1 CONCUR. ONE OF THE THINGS THAT I WOULD ASK, BE IT
2 BE DONE, IS THAT AFTER A BOARD CONCURS OR DOESN'T
3 CONCUR, THAT OUR RESOLUTION, NOT OUR PERMIT, BUT
4 OUR RESOLUTION CONCURRING, WOULD BE ATTACHED TO
5 THIS PLAN SO WE HAVE SOME RECORD THAT WE EVEN TOOK
6 AN ACTION HERE.

7 THAT WOULD BE ONE OF THE THINGS THAT I
8 WOULD WANT TO SEE. AN OPERATOR WRITING -- I LOVE
9 THIS. I DON'T KNOW WHY I'M NOT BACKING THE
10 INDUSTRY. I JUST LOVE WRITING MY OWN CONDITIONS.
11 IT'S -- THIS IS A PRETTY AMAZING CONCEPT. PRETTY
12 AMAZING CONCEPT. AND I'M THE GUY THAT SHOULD BE
13 JUST STAMPING ON THE DOOR FOR THIS THING.

14 BUT I JUST AM NOT CONVINCED THAT I CAN
15 SUPPORT IT, ESPECIALLY FOR STANDARDIZED. OR NOT
16 STANDARDIZED, FOR REGISTRATION TIER. BUT WE'VE --
17 I HAVE MORE QUESTIONS THAT WE'RE GOING TO HAVE TO
18 DEAL WITH AS FAR AS WHEN DOES THE LEA GET TO MAKE
19 SURE THAT THESE CONDITIONS ARE ATTACHED?

20 THE OTHER THING, ON ENFORCEMENT, I DON'T
21 KNOW IF I SHOULD ASK YOU TWO, OR IF I SHOULD ASK
22 TOM UNSELL OR SOMEBODY, BUT WHEN AN LEA OR THE
23 STATE GOES TO INSPECT A FACILITY THAT DOES NOT HAVE
24 A PERMIT, HAS A CONFORMANCE PLAN, A COMPLIANCE
25 PLAN, WHAT ARE THEY INSPECTING? BESIDES THE STATE

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1 MINIMUM STANDARDS, ARE THEY GOING TO READ THE
2 ENTIRE -- THEY HAVE TO BE PREPARED TO READ THE
3 ENTIRE PLAN AND UNDERSTAND HOW THAT IS GOING TO
4 OPERATE. AND IN THE CASE WHERE WE HAVE NEW LEAS IN
5 CERTAIN PLACES, IS THAT GOING TO BE A PROBLEM?

6 MS. HAMBLETON: WELL, THERE'S A COUPLE OF
7 THINGS THAT I COULD IDENTIFY. THE STATUTE ALLOWS
8 FOR ENFORCEMENT BY THE AGENCY, AS THOUGH IT WERE A
9 REGULAR PERMIT. SO, YES. YOU'RE RIGHT. THE
10 INSPECTOR WOULD HAVE TO REVIEW, OR THE LEA WOULD
11 HAVE TO BE REVIEWING THAT WHOLE PLAN. AND THEN
12 THEY WOULD -- THEY WOULD DO THEIR INSPECTION. AND
13 THEN IN TERMS OF -- ANOTHER SORT OF AN EXAMPLE IS
14 THAT WITH THE JTD THAT WE HAVE WITH THE WATER
15 BOARD, IN A WAY, WE'RE ALREADY WORKING CLOSELY WITH
16 THE WATER BOARD, AND SO THIS IS LIKE TAKING ONE
17 STEP FURTHER AND TRYING TO INCLUDE OTHER MEDIUMS
18 LIKE AIR AND HAZARDOUS WASTE, IF THEY WERE ALL AT
19 ONE FACILITY.

20 MEMBER JONES: WHEN YOU HAVE A JTD, YOU
21 STILL END UP WITH WASTE DISCHARGE REQUIREMENTS AND
22 A WASTE BOARD PERMIT?

23 MS. HAMBLETON: THAT'S CORRECT.

24 MEMBER JONES: SO THAT'S WHERE I SEE IT A
25 LITTLE DIFFERENTLY. THE THING ABOUT THIS, WHAT I

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1 WAS STARTING TO SAY, WHEN MR. FRAZEE HAD ASKED IS
2 THIS MULTIPLE STATE AGENCIES, WHAT I UNDERSTOOD IT
3 TO MEAN WAS THAT IN A CONVERSATION I HAD WITH
4 CAL/EPA IS IF THERE ARE SEVEN LOCAL ENTITIES THAT
5 HAVE SOME OVERSIGHT IN MOVING A PERMIT FORWARD,
6 OKAY, IT'S THE LEA, IT'S THE LOCAL -- WHEN YOU SAID
7 IT WON'T BE THE CUP. BUT IT COULD BE OTHER
8 ENTITIES. THE AIR QUALITY DISTRICT, THE LOCAL AIR
9 QUALITY DISTRICT. IT COULD BE -- HOWEVER A CITY IS
10 SET UP OR A COUNTY IS SET UP DETERMINES HOW MANY
11 AGENCIES HAVE PERMITTING AUTHORITY. THEY DON'T
12 REALLY PERMIT THE FACILITY, BUT THEY SIGN OFF ON
13 THE FACILITY, WHICH TELLS ME THAT'S A PERMITTING
14 FACILITY, THAT IT'S LETTING IT GO FORWARD.

15 SO IF THERE'S SEVEN OF THOSE LOCALLY, AND
16 YET ONLY ONE STATE AGENCY, THE WASTE BOARD, THAT
17 WOULD NORMALLY IN THE COURSE OF LIFE GET THIS
18 PERMIT, WE'RE NOT GOING TO SEE A PERMIT, WE'RE
19 GOING TO SEE A COMPLIANCE PLAN, BECAUSE THERE WERE
20 MULTIPLE LOCAL AGENCIES INVOLVED IN SOME
21 OVERSIGHT.

22 MS. HAMBLETON: THAT'S A GOOD QUESTION. MY
23 ASSUMPTION WAS -- IS, AND I WILL CLARIFY THIS,
24 ACTUALLY --

25 MEMBER JONES: I'M GIVING YOU A BAD TIME.

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1 MS. HAMBLETON: IT'S OKAY. I'LL CLARIFY
2 THAT BETWEEN NOW AND THE BOARD MEETING. BUT
3 THAT -- THE MARKETING OF THIS PROGRAM IS TO
4 APPLICANTS THAT HAVE MORE THAN ONE STATE PERMIT.

5 MEMBER JONES: THAT'S EXACTLY WHAT I
6 THOUGHT. AND WHEN I ASKED SOMEBODY, THEY SAID NO.
7 THEY SAID NO. IF THERE ARE MULTIPLE LOCAL
8 AGENCIES, AND ONLY THE WASTE BOARD, IT DOESN'T GET
9 A PERMIT, IT GETS A COMPLIANCE PLAN. AND THAT IS
10 WHERE I HAVE AN ISSUE.

11 IF THERE WERE MULTIPLE STATE PERMITS, I DO
12 NOT HAVE A PROBLEM WITH BEING ON BOARD ON THAT.
13 THAT MAKES SENSE TO COMBINE THOSE THINGS. BUT IF
14 IT IS A TRANSFER STATION PERMIT THAT THE WATER
15 BOARD CLEARLY IS NOT INVOLVED IN, THE AIR BOARD IS
16 NOT INVOLVED IN, TOXICS ISN'T INVOLVED IN, I MEAN,
17 THE ONLY TIME THEY WOULD BE IS IF YOU HAD A
18 FACILITY THAT WAS A HOUSEHOLD HAZERDOUS WASTE,
19 PERMANENT FACILITY AT THAT LOCATION, IF IT IS ONLY
20 ONE STATE AGENCY, BUT TEN -- SEVEN LOCAL AGENCIES,
21 IT FALLS INTO THIS PLAN.

22 I'M NOT SURE IF THAT WAS THE INTENT,
23 BECAUSE THOSE LOCAL AGENCIES DON'T LOOK OVER THESE
24 DOCUMENTS NORMALLY, A COMPLIANCE PLAN. THEY MAY
25 LOOK AT PIECES. HOW ARE YOU GOING TO DEAL WITH

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1 THIS, HOW ARE YOU GOING TO DEAL WITH THAT, WHICH IS
2 FINE. BUT EVEN IF THEY ACCUMULATED ALL THOSE
3 THINGS, IF IT WAS ONLY OUR STATE AGENCY, WHY
4 WOULDN'T THAT WORK FOR US TO ISSUE A PERMIT, AS
5 OPPOSED TO A COMPLIANCE PLAN?

6 MS. HAMBLETON: I'LL BE SURE TO CLARIFY
7 THAT BEFORE THE BOARD MEETING. IN TERMS OF --

8 MR. DIER: TWO THOUGHTS ON THAT, THINKING
9 ABOUT IT. ONE IS THAT AS PROPOSED, THOUGH, THE
10 BOARD WOULD STILL HAVE ON A CASE-BY-CASE
11 EXAMINATION WHETHER OR NOT THEY WANTED TO ALLOW
12 THAT PARTICULAR PERMIT TO GO THROUGH THIS PROCESS.
13 SO PERHAPS, MAYBE IF WE WERE THE ONLY ONE, MAYBE
14 THAT WOULD BE A REASON WHY YOU MAY NOT WANT TO
15 ALLOW IT TO GO THROUGH THE PROCESS. THAT'S WHY
16 WE'RE PROPOSING THAT STANDARDIZED AND FULL HAVE
17 THAT OPTION OF CASE-BY-CASE.

18 AND ANOTHER, JUST THINKING ABOUT IT, I'M
19 NOT SURE, YOU KNOW, IF THE TRANSFER STATION
20 OPERATOR WOULD WANT TO SUBJECT THEMSELVES TO THIS
21 PROCESS IF IT WAS JUST FOR THAT PERMIT.

22 MEMBER JONES: I AGREE. I'M TRYING TO -- I
23 COULD SEE WHERE SOMETHING LIKE THIS WOULD REALLY
24 WORK AND MAKES A LOT OF SENSE. I'M JUST NOT SURE
25 THAT ALL OF OUR INFRASTRUCTURE AND HOW WE WORK HAVE

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1 BEEN THOUGHT OUT AS FAR AS THE APPEALS PROCESS GOES
2 FOR OPERATORS FOR CITIES AND COUNTIES, FOR THE
3 CITIZENS, OR HOW OTHER PEOPLE -- YOU KNOW, HOW
4 OTHER ISSUES WORK.

5 BECAUSE IF YOU'RE GOING TO APPEAL A
6 CONDITION OF THE PERMIT, IF AN OPERATOR IS GOING TO
7 APPEAL THE CONDITION, BUT HE WROTE THE CONDITION,
8 IT DOESN'T MAKE ANY SENSE TO ME. IF THE LEA SAYS
9 YOU HAVE TO INCLUDE THIS TO BE VALID, AND YOU WRITE
10 IT, OKAY, I WRITE IT INTO MY THING, THAT'S ONE OF
11 MY CONDITIONS, BUT I DON'T AGREE WITH IT, WHAT
12 APPEAL PROCESS DO I HAVE? YOU KNOW? WHAT CAN I DO
13 TO REMEDY THE SITUATION? I HAVE NOWHERE TO GO,
14 BECAUSE I'M THE ONE THAT WROTE THE DAMN COMPLIANCE
15 PLAN. IT'S JUST SOMETHING TO THINK ABOUT.

16 THAT'S ALL, MR. CHAIRMAN.

17 CHAIRMAN FRAZEE: DO WE HAVE THE ABILITY TO
18 RESTRICT OUR INVOLVEMENT IN THIS PLAN TO
19 REGISTRATION PERMITS ONLY, OR ARE WE OBLIGATED TO
20 INCLUDE THE ENTIRE RANGE OF PERMITS?

21 MR. DIER: I'M NOT SURE WE'RE OBLIGATED
22 TO. MAYBE THERE'S AN EXPECTATION. BUT SO FAR, ALL
23 THE OTHER STATE AGENCIES THAT ARE INVOLVED, NOT TO
24 MISCHARACTERIZE THEM, BUT THEY'RE OFFERING THE
25 LESSER PERMITS WITHOUT CONDITION, AND THEY'RE

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1 PUTTING AN ASTERISK BY THEIR MORE SIGNIFICANT
2 PERMITS, YOU KNOW. THE MAJOR TOXIC PERMITS AND THE
3 WDRs AND THINGS LIKE THAT. SO I THINK THAT THERE
4 IS AN EXPECTATION, BUT IT SEEMS LIKE THERE IS THE
5 OPPORTUNITY AS -- THE ABILITY FOR EACH AGENCY TO
6 PROVIDE FOR THE CASE-BY-CASE.

7 CHAIRMAN FRAZEE: FOR EXAMPLE, THE AIR
8 RESOURCES BOARD WOULD RESTRICT ALL OF THEIRS TO
9 CASE-BY-CASE, AND THE REGIONAL WATER BOARDS. AND I
10 DON'T KNOW THE DIFFERENCE BETWEEN A GENERAL PERMIT
11 AND A SPECIFIC PERMIT.

12 MR. DIER: ESSENTIALLY THE AIR DISTRICTS
13 ONLY HAVE ONE. IT'S A TWO-STEP PROCESS. BUT IT'S
14 ESSENTIALLY ONE PERMIT IS ALL THEY HAVE TO DEAL
15 WITH.

16 MEMBER JONES: THE WATER BOARD HE WAS
17 ASKING.

18 CHAIRMAN FRAZEE: THE WATER BOARD GENERAL
19 PERMITS AND SPECIFIC PERMITS. I DON'T KNOW WHAT A
20 GENERAL PERMIT --

21 MR. DIER: THAT'S WHAT THEY DID. THEY DID
22 GENERAL ORDERS WHEN WE HAD THE COMPOSTING, AND FOR
23 OTHER ISSUES THAT COME UP ESSENTIALLY ON A REGIONAL
24 BOARD LEVEL ISSUE, GENERAL WASTE DISCHARGE
25 REQUIREMENTS TO APPLY TO A CLASS OF FACILITIES OR

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1 OPERATIONS OR WASTE TYPES.

2 MEMBER JONES: MR. CHAIRMAN, WHILE YOU'RE
3 ON THAT, THE REGIONAL WATER QUALITY CONTROL BOARD
4 IN SACRAMENTO, DOES THIS INCLUDE THE OUTLYING
5 REGIONAL AGENCIES? I MEAN, ALL OF THE REGIONAL
6 OFFICES HAVE SIGNED OFF?

7 MS. HAMBLETON: ONLY THE ONES THAT ARE
8 AFFECTED BY THOSE FOUR ZONES THAT HAVE APPLIED SO
9 FAR.

10 MEMBER JONES: OKAY.

11 MS. HAMBLETON: SO IT WOULD BE THOSE APCDs,
12 AQMDs, REGIONAL -- I THINK IT'S TWO REGIONAL
13 BOARDS. SO JUST THOSE THAT ARE LOCATED OR HAVE
14 JURISDICTION OVER THOSE ZONES THAT HAVE APPLIED.
15 THOSE FOUR ZONES.

16 MR. CHANDLER: LET'S TAKE THAT QUESTION TO
17 OUR CONSTITUENTS. HOW ARE THE LEAs FOR THESE FOUR
18 ZONES VIEWING THIS? HAVE THEY ALL BEEN CONTACTED
19 AND MADE CLEAR ON WHAT THEIR RESPONSIBILITIES WOULD
20 BE IN THESE FOUR ZONES?

21 MS. HAMBLETON: I HAVE MADE CONTACT WITH
22 ALL OF THEM, WORKING MORE CLOSELY WITH SOME OF THEM
23 THAN OTHERS. IT APPEARS THAT SOME OF THE ZONES ARE
24 NOT REALLY INTERESTED IN SOLID WASTE PROJECTS AT
25 THIS TIME. A COUPLE OF THEM ARE, AND THOSE ARE ON

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1 BOARD.

2 ALSO, THE ZONE ADMINISTRATOR, PART OF THAT
3 ROLE IS TO KEEP THEM APPRISED OF THE PROGRAM. SO
4 YEAH, THEY'RE AWARE OF IT. AND ESPECIALLY IN KERN
5 COUNTY, THEY'RE WORKING TOWARDS POSSIBLY A LANDFILL
6 EXPANSION WITH ONE OF THEIR LANDFILLS.

7 MEMBER JONES: THAT BEGS A QUESTION. WOULD
8 THAT BE THE LANDFILL THAT WE HAD TO -- I THINK IT
9 WAS KERN COUNTY THAT WE HAD TO BASICALLY INSIST
10 THAT THEY DO NOTICE AND ORDERS ON THE GAS. THEY
11 WERE CONDEMNING THE LAND NEXT TO IT. AND THEY HAD
12 ORIGINALLY SAID THEY WOULD DO A GAS PROGRAM, THEN
13 THEY WERE GOING TO CONDEMN THE LAND, BUT THEY
14 REFUSED TO MOVE THE BOUNDARIES OF THE LANDFILL.

15 CHAIRMAN FRAZEE: THAT WAS MERCED.

16 MEMBER JONES: WAS THAT MERCED? OKAY.

17 MS. HAMBLETON: JUST TO FOLLOW UP ON THAT,
18 IN ORDER TO BE ELIGIBLE FOR THIS PROGRAM, YOU
19 CANNOT BE -- I MEAN, YOU HAVE TO BE IN COMPLIANCE
20 WITH ALL THE AGENCIES' REQUIREMENTS. SO THEY WOULD
21 HAVE TO BE IN COMPLIANCE WITH STATE MINIMUM
22 STANDARDS IN ORDER TO BE ELIGIBLE FOR THIS
23 PROGRAM.

24 MEMBER JONES: THIS IS A LANDFILL THAT --
25 NOW, WHERE IS THE -- WHAT'S THE C AND D SITE THAT

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1 THEY THINK IS NOT A C AND D SITE?

2 MS. HAMBLETON: I DON'T BELIEVE THAT'S THE
3 ONE THEY'RE WORKING ON.

4 MEMBER JONES: OKAY. WELL, THEY DON'T
5 THINK THAT ONE NEEDS A PERMIT.

6 MS. HAMBLETON: SO THEY WOULDN'T BE WORKING
7 ON IT.

8 MEMBER JONES: BUT THAT CREATES ANOTHER
9 ISSUE, BECAUSE THEY SAY THEY'RE FILLING IT WITH
10 INERTS, BUT THEY'RE FILLING IT WITH CARPET, WITH
11 PLASTIC, WITH AUTO SHREDDER FLUFF, WITH ALL THOSE
12 TYPES OF THINGS, AND WE HAVEN'T SEEN A PERMIT FOR
13 IT YET. AND THIS IS GOING TO BE THE SAME
14 ADMINISTRATOR THAT NOW WANTS TO DO COMPLIANCE
15 PLANS, AS OPPOSED TO GOING THROUGH THE PERMIT
16 SYSTEM?

17 MS. HAMBLETON: WELL, WE WOULD BE REVIEWING
18 THE DOCUMENTS CONCURRENTLY, SO --

19 MEMBER JONES: BUT YOU KNOW WHAT I MEAN?
20 JUDGMENT KIND OF PLAYS A ROLE IN WHETHER THE
21 OPPORTUNITY TO STREAMLINE SHOULD BE AFFORDED TO
22 YOU, I WOULD THINK. OKAY.

23 CHAIRMAN FRAZEE: WE DO HAVE A SPEAKER SLIP
24 FROM LARRY SWEETSER, REPRESENTING NORCAL WASTE
25 SYSTEMS.

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1 MR. SWEETSER: GOOD MORNING, CHAIRMAN
2 FRAZEE, BOARDMEMBER JONES. MY NAME IS LARRY
3 SWEETSER, DIRECTOR OF REGULATORY AFFAIRS FOR NORCAL
4 WASTE SYSTEMS. AND I SUPPORT URGING CAUTION ON
5 THIS ISSUE. ADMITTEDLY THERE'S SOME ATTRACTION TO
6 THIS PROCESS, AND I'VE FOLLOWED IT FOR SOME TIME,
7 AND ACTUALLY ATTENDED SOME OF THE MEETINGS.
8 GETTING A PERMIT ON A NEW LANDFILL IN 45 DAYS IS
9 VERY ATTRACTIVE TO US AND SAVES A LOT OF TIME,
10 SAVES A LOT OF MONEY, BUT THERE ARE SOME
11 CONCERNS.

12 WE'VE ALWAYS SUPPORTED THE IDEA OF
13 DELINEATION, STREAMLINING. A LOT OF THE WORK
14 THAT'S GONE ON ALREADY IN 1220. THAT HAS WORKED
15 PRETTY WELL. AND I THINK THERE IS APPLICATION HERE
16 FOR SINGLE FACILITIES, ALTHOUGH I THINK THE REAL
17 VALUE OF THIS IS IN A MULTI-AGENCY SITUATION, WHICH
18 WE DON'T USUALLY ENCOUNTER ON THE SOLID WASTE SIDE.
19 AT LEAST IT'S VERY LIMITED.

20 I THINK PART OF THE CONFUSION IS THAT THE
21 BOARD HAS ALREADY IMPLEMENTED A LOT OF THE FEATURES
22 THAT WERE PUSHED FOR IN THIS. WE'VE GOT AB 1220,
23 WE HAVE A JOINT TECHNICAL DOCUMENT. WITHIN THE
24 REGULATIONS, AND EVEN IN THE DOCUMENT, IT CLEARLY
25 SPELLS OUT WHICH AGENCY WILL BE RESPONSIBLE FOR

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1 REVIEWING AND ENFORCING THE VARIOUS STANDARDS. AND
2 I THINK SOME OF THAT MAY BE LACKING IN THIS
3 PROPOSAL ON THE 1299 PROCESS. AND WE'VE YET TO TRY
4 OUT THAT PROCESS IN REVIEW OF JOINT TECHNICAL
5 DOCUMENTS WHERE TWO AGENCIES ARE LOOKING AT IT, BUT
6 THEY CAN ONLY LOOK AT CERTAIN PORTIONS FOR REVIEW.
7 SO HOW THAT WOULD WORK WITH MANY OTHER AGENCIES
8 INVOLVED IS NOT TOO CLEAR.

9 ADMITTEDLY, THE COMBINED DOCUMENT WILL SAVE
10 SOME TIME AND MONEY FOR US. BUT THERE'S ALSO
11 CERTAIN ADVANTAGES TO HAVING SEPARATE DOCUMENTS
12 AVAILABLE. IN MANY CASES, IF WE HAVE TO GO THROUGH
13 A REVISION PROCESS, AND IT'S ONLY PARTICULAR TO ONE
14 AGENCY, WE ONLY HAVE TO REVISE THAT ONE DOCUMENT.
15 UNDER THIS PROCESS, WE WOULD HAVE TO REVISE THAT
16 DOCUMENT, I BELIEVE, AND SUBMIT IT TO ALL THE
17 AGENCIES FOR REVIEW, JUST TO MAKE SURE, WHICH CAN
18 INCREASE THE COST OF THIS PROPOSAL.

19 SO IN MANY OF OUR SITUATIONS, PARTICULARLY
20 IN TRANSFER STATIONS, I WOULDN'T SEE THE BENEFIT
21 FOR THAT, OR EVEN SOME OF THE OTHER STANDARDIZED OR
22 NOTIFICATION OR REGISTRATION TIERS. SO THE REAL
23 ONLY APPLICABILITY I WOULD SEE IS ON LANDFILLS.
24 AND TYPICALLY A LANDFILL REVISION IS ONLY GOING
25 THROUGH THE WASTE BOARD OR WATER BOARD

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1 CONCURRENCE.

2 THE WASTE BOARD ALREADY HAS A TIME LINE
3 ESTABLISHED. 15 DAYS REALLY WON'T SAVE US THAT
4 MUCH EFFORT OR TIME, GIVEN THE EFFORT INVOLVED. IT
5 DOES PROVIDE SOME ATTRACTION ON THE WATER BOARD
6 SIDE, WHICH DOESN'T HAVE THAT KIND OF A TIME LINE.
7 THEY CAN SORT OF TAKE THEIR TIME REVIEWING THOSE
8 DOCUMENTS, SO THIS PROCESS PROVIDES ATTRACTION
9 THERE. BUT THAT'S NOT YOUR ISSUE.

10 SO IT'S REALLY, I THINK, A RATHER LIMITED
11 APPLICATION. THERE IS ONE CONCERN, AND ONE OF THE
12 REASONS WE WOULD PROBABLY NOT BE ONE OF THE FIRST
13 TO PUT ONE OF OUR LANDFILLS THROUGH THIS PROCESS,
14 IS I THINK A PUBLIC PERCEPTION ISSUE OF TRYING TO
15 FORCE A FACILITY PERMIT DOWN THEM WITH VERY LITTLE
16 REVIEW, OR VERY LITTLE TIME FOR REVIEW, VERY LITTLE
17 NOTICE FOR HEARINGS. IT PROBABLY WOULD EVEN PROMPT
18 SOME LAWSUITS ON THAT FACILITY. SO AT THIS POINT,
19 WE PROBABLY WANT TO WAIT AND SEE HOW THAT WOULD
20 TURN OUT FOR THESE TYPES OF FACILITIES.

21 AS I SAID, IT DOES APPLY TO OTHER TYPES OF
22 PERMITS THAT WE HAVE, AND OTHER TYPES OF
23 ACTIVITIES, BUT I SEE VERY LIMITED ACTIVITY RELATED
24 TO THE WASTE BOARD. SO THIS MIGHT BE A SUBJECT,
25 MAYBE SOMETHING I CAN SUGGEST IS MAYBE CONVENING AN

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1 INTERESTED PARTY WORK GROUP FOR THOSE OF US
2 INTERESTED, AND SEE WHAT KIND OF THOUGHTS WE CAN
3 PUT INTO THE PROCESS FOR YOU.

4 WE HAVE A LOT OF PEOPLE THAT HAVE GONE
5 THROUGH THE PROCESS, AND I GET THE PHONE CALLS FROM
6 THEM. IS THERE ANY WAY TO MAKE THIS EASIER,
7 SIMPLER, BETTER, CHEAPER? SO BE WILLING TO OFFER
8 OUR INVOLVEMENT IN THAT PROCESS.

9 BUT AGAIN, I URGE SOME CAUTION APPROACHING
10 THIS, AND WE'RE AVAILABLE FOR ANY QUESTIONS, AS
11 ALWAYS. THANK YOU.

12 CHAIRMAN FRAZEE: IS THERE A TIME LINE ON
13 WHEN WE ARE REQUIRED TO SIGN THE --

14 MR. DIER: REQUIRED? NO, I DON'T THINK
15 THERE IS. BUT CAL/EPA, IT WAS OUR UNDERSTANDING,
16 IS MOVING FORWARD TO TRY AND FINALIZE THE AGREEMENT
17 AS SOON AS POSSIBLE. AS SUZANNE MENTIONED, WE'VE
18 BROUGHT THE ITEM TO COMMITTEE WITHOUT A
19 RECOMMENDATION. WE'VE HAD SOME GOOD QUESTIONS AND
20 COMMENTS. WE'LL PURSUE THOSE AND TRY AND HAVE
21 ANSWERS FOR THOSE BY THE BOARD MEETING. AND
22 PERHAPS IT WOULD BE HELPFUL TO HAVE A
23 REPRESENTATIVE OF CAL/EPA AT THE BOARD MEETING
24 ALSO. BECAUSE SOME OF THESE QUESTIONS REALLY SEEM
25 TO BE MORE DIRECTED TO THEM.

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1 MS. TOBIAS: I MIGHT SAY, MR. FRAZEE, THAT
2 MY UNDERSTANDING IS IS THAT THE WAY THE MOU WORKS
3 IS THAT ONCE CAL/EPA AND ONE OTHER AGENCY HAVE
4 SIGNED IT, THEN THE PROCESS DOES START TO MOVE
5 FORWARD FOR THAT AGENCY. SO UNTIL EACH AGENCY
6 SIGNS THE MOU, IT'S NOT IN EFFECT WITH RESPECT TO
7 THAT AGENCY, BUT IT COULD BE MOVING FOR OTHER
8 AGENCIES, WHOEVER SIGNED ON TO IT.

9 DOES THAT MAKE SENSE?

10 CHAIRMAN FRAZEE: WELL, I'M WONDERING WHAT
11 HELP THAT WOULD BE? SUPPOSING SOMEONE CAME IN AND
12 WANTED TO UTILIZE THIS PROCESS, AND AT THAT POINT
13 IT WAS ONLY AFFECTING ONE AGENCY, WHAT VALUE --

14 MS. TOBIAS: WELL, I THINK THAT'S WHY THEY
15 WOULD LIKE TO -- I MEAN, I THINK CAL/EPA IS
16 REQUESTING THAT ALL THE AGENCIES SIGN ON NOW AND BE
17 AVAILABLE FOR THIS. AND ONLY I'M SAYING THAT THE
18 WAY THE AGREEMENT WORKS, IS THAT IT DOESN'T
19 EFFECTUATE FOR A PARTICULAR AGENCY UNTIL THEY SIGN
20 ON.

21 YOU MAY HAVE, SAY, THE WATER BOARD AND THE
22 REGIONAL WATER BOARDS AND THE AIR BOARDS ALL SIGNED
23 ON. THE WAY THAT IT WOULD WORK IS THAT IT
24 BASICALLY MOVES FORWARD FOR THOSE AGENCIES. SO
25 THOSE PERMITS WOULD BE CONSOLIDATED. WHOEVER'S

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1 NOT, WON'T CONTINUE TO SIGN ON.

2 CHAIRMAN FRAZEE: AND WHAT WOULD HAPPEN IF

3 WE AGREED TO SIGN AND INCLUDE ONLY REGISTRATION

4 PERMITS?

5 MS. TOBIAS: THEN THAT'S ALL THAT WOULD BE

6 INCLUDED AT THIS TIME.

7 CHAIRMAN FRAZEE: THEN WE'LL GET OUR

8 FINGERS WHACKED WITH A RULER OR SOMETHING?

9 MEMBER JONES: NOBODY COULD WHACK YOUR

10 FINGERS, MR. CHAIRMAN.

11 CHAIRMAN FRAZEE: OKAY. THEN IF THERE'S NO

12 OBJECTION, MY COLLEAGUE, WE'LL JUST FORWARD THIS

13 ONE TO THE FULL BOARD, AND HOPEFULLY WE'LL HAVE A

14 FEW MORE ANSWERS BY THE TIME OF THE BOARD MEETING.

15 MEMBER JONES: WORKS FOR ME, MR. CHAIRMAN.

16 ABSOLUTELY.

17 CHAIRMAN FRAZEE: OKAY. GOOD. NOW WE ARE

18 READY TO MOVE TO AGENDA ITEM FIVE. AND MR. WHITE

19 IS PRESENT. ITEM FIVE IS THE CONSIDERATION OF THE

20 WASTE MANAGEMENT INCORPORATED ALLOWANCE TO CONTINUE

21 USING NGIC INSURANCE TO DEMONSTRATE FINANCIAL

22 ASSURANCES FOR CLOSURE AND POSTCLOSURE

23 MAINTENANCE.

24 MR. DIER: MR. CHAIRMAN, RICHARD CASTLE AND

25 GARTH ADAMS OF THE FINANCIAL ASSURANCES SECTION

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1 WILL MAKE THE PRESENTATION.

2 MR. CASTLE: GOOD MORNING. MY NAME IS
3 RICHARD CASTLE, AND I WORK IN THE BOARD'S FINANCIAL
4 ASSURANCES SECTION.

5 AT THE JANUARY 28TH BOARD MEETING, THE
6 BOARD VOTED TO ALLOW WASTE MANAGEMENT 180 DAYS TO
7 PURSUE APPROVAL OF THEIR CAPTIVE INSURANCE COMPANY,
8 WHICH IS NGIC, OR NATIONAL GUARANTEE INSURANCE
9 COMPANY. THE APPROVAL WOULD COME FROM THE
10 CALIFORNIA DEPARTMENT OF INSURANCE.

11 WASTE MANAGEMENT WAS ALSO REQUIRED TO
12 REPORT TO THE BOARD IN MARCH, MAY, AND JULY,
13 REGARDING ANY PROGRESS MADE IN OBTAINING THEIR
14 APPROVAL FROM THE DEPARTMENT OF INSURANCE. AS OF
15 JULY -- AS JULY IS THE END OF THE SIX MONTHS
16 ALLOWED FOR THE NECESSARY APPROVAL TO BE RECEIVED,
17 WE BROUGHT THE ITEM BACK FOR YOUR ADDITIONAL
18 CONSIDERATION.

19 IT'S OUR UNDERSTANDING THAT NGIC HAS NOT
20 YET QUALIFIED AS AN ADMITTED OR AS AN ELIGIBLE
21 INSURER TO PROVIDE INSURENCE DEMONSTRATIONS UNDER
22 THE REQUIREMENTS OF THE BOARD AND THE DEPARTMENT OF
23 INSURANCE.

24 I UNDERSTAND THAT MR. WHITE FROM WASTE
25 MANAGEMENT IS HERE TODAY TO PROVIDE ANY DETAILS

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1 REGARDING THAT PROGRESS. ONE POINT I WOULD LIKE TO
2 MAKE IS THAT WE HAVE ALSO -- WE'RE NOT NECESSARILY
3 PREPARED TO DISCUSS IT TODAY, BUT FOR YOUR
4 UNDERSTANDING, THERE'S BEEN LEGISLATION INTRODUCED,
5 WHICH IS ASSEMBLY BILL 715, WHICH WILL PUT INTO
6 STATUTE A PROCESS OUTSIDE OF THE DEPARTMENT OF
7 INSURANCE WHEREBY CAPTIVE INSURERS SUCH AS NGIC
8 WOULD BE APPROVED DIRECTLY BY THE BOARD FOR
9 SUBMISSION OF FINANCIAL ASSURANCE DEMONSTRATIONS.

10 BASICALLY WE'RE HERE TO ANSWER ANY OTHER
11 QUESTIONS THAT YOU HAVE ON THE ITEM.

12 CHAIRMAN FRAZEE: I THINK --

13 MR. ADAMS: I WANTED TO SAY, THIS IS GARTH
14 ADAMS, FOR THE RECORD, AND THERE IS A
15 REPRESENTATIVE FROM WASTE MANAGEMENT TO SPEAK TO
16 THIS. I THINK MR. WHITE JUST SUBMITTED A SLIP.

17 AND IN THE ITEM, THERE IS A RECOMMENDATION
18 FROM STAFF, AND THERE'S SOME OPTIONS IN THERE. AND
19 AS WE GET THROUGH THIS DISCUSSION, I THINK IT WILL
20 KIND OF MAYBE SPEAK TO ITSELF AS TO HOW THIS IS
21 GOING TO GO. AND IF YOU'D LIKE TO ASK US ANYTHING
22 ELSE, WE CERTAINLY WOULD BE GLAD TO ANSWER THEM.

23 CHAIRMAN FRAZEE: AND I UNDERSTAND THAT,
24 WELL, I GUESS THIS QUESTION IS APPROPRIATE FOR MR.
25 WHITE, BUT THAT IT'S HIGHLY UNLIKELY THAT THE

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1 DEPARTMENT OF INSURANCE WILL APPROVE THIS.

2 MR. ADAMS: I BELIEVE THAT'S WHAT MR. WHITE
3 CONVEYED TO US AS WELL.

4 CHAIRMAN FRAZEE: WOULD YOU LIKE TO COME
5 FORWARD, CHUCK? THIS IS CHUCK WHITE, REPRESENTING
6 WASTE MANAGEMENT, INCORPORATED.

7 MR. WHITE: THANK YOU, MR. CHAIRMAN, MEMBER
8 JONES.

9 THIS IS THE TIME FRAME WITHIN WHICH YOU
10 PROVIDED FOR US BACK IN JANUARY TO SEE IF WE COULD
11 POSSIBLY SECURE APPROVAL BY THE CALIFORNIA
12 DEPARTMENT OF INSURANCE. I HAVEN'T RECEIVED THE
13 FINAL PACKAGE FROM THE DEPARTMENT OF INSURANCE, BUT
14 IT MAY BE IN MY OFFICE TODAY. ACTUALLY, I'VE BEEN
15 OUT OF THE OFFICE THE LAST DAY.

16 BASICALLY THE DEPARTMENT OF INSURANCE WILL
17 BE DENYING OUR ABILITY TO TRANSACT, UNDER THEIR
18 TERMINOLOGY, INSURANCE IN CALIFORNIA. THAT MEANS
19 BASICALLY WE CANNOT SELL INSURANCE TO OTHER
20 PARTIES. THAT'S BASICALLY WHAT THE DEPARTMENT OF
21 INSURANCE IS PROVIDING FOR -- PROVIDES FOR IN THEIR
22 INSURANCE CODE.

23 WE'VE GONE THROUGH A VERY EXHAUSTIVE
24 REVIEW. WE'VE GIVEN THEM EVERYTHING WE CAN ABOUT
25 OUR NGIC, WHICH IS A CAPTIVE INSURANCE COMPANY, AND

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1 THEY DID A VERY COMPLETE REVIEW. BUT THEY REVIEWED
2 IT WITH RESPECT TO THE PROVISIONS OF THE INSURANCE
3 CODE. AND THE INSURANCE CODE IS ONLY SET UP TO
4 PROVIDE REVIEW AND APPROVAL OF COMMERCIAL INSURANCE
5 COMPANIES THAT TRANSACT INSURANCE AND SELL
6 INSURANCE ON THE MARKET TO OTHER PARTIES.

7 WE'RE NOT THAT TYPE OF INSURANCE COMPANY.
8 WE SIMPLY DO OUR OWN INSURANCE FOR OUR OWN TYPES OF
9 FACILITIES, WHICH IS TRUE OF OTHER SOLID WASTE
10 COMPANIES, PURSUANT TO THE REQUIREMENTS OF SUBTITLE
11 D.

12 THERE'S A NUMBER OF ISSUES THAT WE COULDN'T
13 REALLY COMPLY WITH THE CALIFORNA DEPARTMENT OF
14 INSURANCE CODE. ONE, FOR EXAMPLE, THE BIGGEST ONE
15 IN OUR MIND, IS WE PRINCIPALLY USE LETTERS OF
16 CREDIT AS A WAY OF CAPITALIZING THE INSURANCE
17 COMPANY. THIS CALIFORNIA INSURANCE CODE FOR
18 COMMERCIAL INSURANCE COMPANIES SPECIFICALLY
19 PRECLUDES THE ABILITY TO USE LETTERS OF CREDIT,
20 WHICH IS A LITTLE BIT CONTRARY TO THE SENSE OF THE
21 WASTE BOARD'S OWN REGULATIONS, WHICH CERTAINLY
22 ALLOW LETTERS OF CREDIT TO BE USED FOR PROVIDING
23 FINANCIAL ASSURANCE FOR CLOSURE AND POSTCLOSURE OF
24 SOLID WASTE LANDFILLS.

25 BASICALLY, THE DEPARTMENT OF INSURANCE IS

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1 TELLING US THAT WE WOULD NOT BE BEFORE THE
2 DEPARTMENT OF INSURANCE, WERE IT NOT FOR THIS
3 AGENCY, THE BOARD'S REGULATIONS THAT SENT IT
4 THERE. WE WOULD NOT BE REQUIRED, OTHERWISE, IN
5 ORDER TO OPERATE IN CALIFORNIA AS A SELF-INSURED TO
6 GO THROUGH THE CALIFORNIA DEPARTMENT OF INSURANCE
7 REQUIREMENTS. THEY'RE BASICALLY SAYING
8 UNEQUIVOCALLY THE ONLY REASON WE'RE THERE IS
9 BECAUSE OF THIS BOARD'S REGULATIONS THAT SAID IN
10 ORDER TO PROVIDE THIS TYPE OF INSURANCE, YOU MUST
11 BE LICENSED OR APPROVED BY THE CALIFORNIA
12 DEPARTMENT OF INSURANCE.

13 THEY'VE INDICATED, AND WILL INDICATE TO
14 ANYBODY THAT ASKS, THAT WE COOPERATE FULLY WITH
15 THEM. BUT WE SIMPLY CANNOT COMPLY WITH THE WAY THE
16 INSURANCE CODE IS SET UP TO REGULATE COMMERCIAL
17 INSURANCE COMPANIES.

18 AND THEY'VE ALSO INDICATED TO US THAT
19 CAPTIVE INSURANCE COMPANIES MAY, THEY DON'T SAY
20 ARE, BECAUSE THEY'RE NOT REALLY SET UP TO REVIEW
21 CAPTIVES, THEY DON'T HAVE ANY PROVISION IN THE
22 INSURANCE CODE TO REVIEW CAPTIVES, THEY SAY WE MAY
23 BE PERFECTLY ACCEPTABLE TO OPERATE IN CALIFORNIA
24 PURSUANT TO OTHER LAWS OR OTHER REQUIREMENTS FOR
25 THE PROVISION OF THIS TYPE OF FINANCIAL ASSURANCE.

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1 THEY HAVE SAID ONE OPTION WOULD BE TO GO
2 BACK AND AMEND THE INSURANCE CODE AND SET UP A
3 SEPARATE PROCESS IN THE INSURANCE CODE TO REVIEW
4 AND APPROVE CAPTIVES, WHICH CURRENTLY DOES NOT
5 EXIST IN CALIFORNIA.

6 THEY SAID WHILE THAT WOULD BE POSSIBLE,
7 THEY WOULD STRONGLY URGE THAT NOT BE THE OPTION
8 CHOSEN TO PURSUE, BECAUSE THEY FEEL IT'S NOT REALLY
9 WHAT THEY'RE INTERESTED IN GETTING INVOLVED IN,
10 REGULATING CAPTIVE INSURANCE COMPANIES. THEY HAVE
11 BASICALLY SUGGESTED WHY DON'T WE GO BACK AND WORK
12 WITH THE BOARD AND OTHERS TO AMEND THE PUBLIC
13 RESOURCES CODE TO PROVIDE -- OR THROUGH YOUR OWN
14 REGULATIONS, TO AMEND THEM TO PROVIDE A PROCESS FOR
15 REVIEWING AND APPROVING THIS TYPE OF CAPTIVE
16 INSURANCE COMPANY.

17 IN RESPONSE TO THAT, WE HAVE ASKED
18 ASSEMBLYWOMAN LIZ FIGUEROA TO OFFER A BILL, AS THE
19 STAFF MENTIONED, AB 715. SHE IS THE CHAIRMAN OF
20 THE ASSEMBLY INSURANCE COMMITTEE, AND IS PERFECTLY
21 WILLING TO SAY THAT AS A PROVISION TO THE PUBLIC
22 RESOURCES CODE, THAT THIS WOULD BE PERFECTLY
23 LEGITIMATE FOR PURPOSES OF PROVIDING FINANCIAL
24 ASSURANCE FOR SOLID WASTE FACILITIES, WITH A NUMBER
25 OF PROVISIONS THAT ARE PROPOSED FOR THE BILL AS IT

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1 READS NOW. AND BASICALLY THE BILL WOULD AMEND
2 SECTION 43601 OF THE PUBLIC RESOURCES CODE.

3 ONE, YOU DON'T TRANSACT OR SELL INSURANCE
4 TO ANYBODY ELSE. YOU ONLY PROVIDE IT FOR YOUR OWN
5 FINANCIAL ASSURANCE NEEDS. YOU'RE FULLY COMPLIANT
6 WITH THE SUBTITLE D REQUIREMENTS UNDER RICRA FOR
7 OPERATING AN INSURANCE COMPANY FOR THIS PURPOSE.
8 THAT YOU SECURE AN AM-BEST OR OTHER EQUIVALENT
9 SECURE RATING, WHICH WOULD BE IN ADDITION TO
10 SUBTITLE D REQUIREMENTS, AND THAT YOU PROVIDE AN
11 ANNUAL AUDIT REPORT TO THIS BOARD, OR MORE
12 FREQUENTLY, IF THIS BOARD REQUESTS.

13 THE LEGISLATION DOESN'T SAY YOU SHALL
14 APPROVE AN INSURANCE COMPANY. IT'S STILL
15 PERMISSIVE. YOU WOULD BASICALLY HAVE TO MEET THESE
16 MINIMUM REQUIREMENTS, AND THEN ASK YOU FOR APPROVAL
17 TO CONTINUE USING THIS MECHANISM FOR FINANCIAL
18 ASSURANCE NEEDS.

19 THIS BILL IS SUPPORTED BY WASTE MANAGEMENT
20 USA WASTE, WHICH AS OF TOMORROW WILL BE THE SAME
21 COMPANY, I'M TOLD, AND BFI. ALL THREE OF THESE
22 COMPANIES CURRENTLY PROVIDE THEIR OWN SEPARATE
23 FINANCIAL ASSURANCE MECHANISMS.

24 WE'D LIKE TO WORK WITH THE BOARD AND THE
25 STAFF ON AB 715. IT'S OUR SHOT AT WHAT WE THINK IS

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1 A PROPER ALTERNATIVE TO ALLOW THIS KIND OF
2 MECHANISM TO PROCEED. WE'VE ENCOURAGED YOU TO WORK
3 WITH US AND MAKE SURE THAT ANY REQUIREMENTS OF THE
4 BILL ARE APPROPRIATE FOR THIS KIND OF CONTINUED USE
5 OF THIS MECHANISM.

6 THAT KIND OF BRINGS US TO THE FINAL ISSUE,
7 IS THAT, WELL, WE HAVE THE SIX-MONTH EXTENSION THAT
8 WAS GIVEN IN JANUARY THAT ENDS ON JULY -- END OF
9 JULY. AND SO WE WOULD NEED TO HAVE THIS ISSUE,
10 HOPEFULLY AN EXTENSION PROVIDED, AT THE JULY 29TH
11 BOARD MEETING. WE'D ASK THIS COMMITTEE TO MAKE
12 THAT RECOMMENDATION TO THE BOARD TO GIVE US SOME
13 ADDITIONAL TIME TO IMPLEMENT THIS PIECE OF
14 ADDITIONAL LEGISLATION AS IT ULTIMATELY WOULD
15 READ.

16 AND THE QUESTION I WOULD ASK YOU IS TO WHAT
17 ADDITIONAL TIME DO YOU BELIEVE TO BE APPROPRIATE?
18 A SIX-MONTH EXTENSION WOULD TAKE US TO JANUARY
19 29TH. THE BILL, IF ENACTED, WOULD BECOME EFFECTIVE
20 ON JANUARY 1. THAT WOULD ALLOW US TO COME BACK
21 THAT MONTH BEFORE THE BOARD, AND IF THAT'S
22 APPROPRIATE PROCEDURE TO USE FOR THE BOARD TO
23 EITHER APPROVE OR DENY THIS TYPE OF CONTINUED USE
24 AT THAT TIME ON A PERMANENT BASIS, PURSUANT TO THIS
25 NEW LEGISLATIVE LANGUAGE.

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1 THERE MAY BE A NEED FOR A SLIGHTLY LONGER
2 PERIOD OF TIME OF SEVEN OR EIGHT MONTHS, DEPENDING
3 ON HOW MUCH TIME YOU WOULD NEED AFTER THE FIRST OF
4 THE YEAR TO GO THROUGH AND TAKE A LOOK AT THIS
5 MECHANISM.

6 A SHORTER PERIOD OF TIME COULD POTENTIALLY
7 BE APPROPRIATE, THOUGH THAT WOULD SIMPLY REQUIRE
8 FURTHER EXTENSION, AT LEAST TO BE ON THE FIRST OF
9 THE YEAR. THREE-MONTH EXTENSION, FOR EXAMPLE,
10 WOULD TAKE US THROUGH OCTOBER 29TH, WHICH WOULD BE
11 PAST THE TIME THAT THE GOVERNOR WOULD SIGN ANY
12 LEGISLATION. SO AS OF OCTOBER 29TH, OR THE END OF
13 OCTOBER, YOU WOULD KNOW WHETHER OR NOT THIS BILL
14 IS, IN FACT, IN EFFECT. IT WOULD BE EFFECT IN
15 JANUARY.

16 SO I GET THE IMMEDIATE DECISION, I GUESS
17 IT'S NOT A DEBATE, THE MERITS OF AB 715, WE WOULD
18 LIKE CERTAINLY LIKE TO HAVE YOUR COOPERATION AND
19 WORK WITH YOU ON THAT. AND HOPEFULLY THE LANGUAGE
20 WOULD MEET YOUR NEEDS. BUT IMMEDIATELY, WE WOULD
21 ASK THAT THE BOARD GRANT US ADDITIONAL TIME TO WORK
22 ON AB 715 WITH YOU, AND HOPEFULLY GET SOMETHING
23 IMPLEMENTED THAT PROVIDES AN ALTERNATIVE OPTION FOR
24 APPROVING INSURANCE THAT DOES NOT REQUIRE A COMPANY
25 TO OPERATE AS IF THEY'RE A COMMERCIAL INSURANCE

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1 COMPANY TRANSACTING INSURANCE ON THE OPEN MARKET,
2 WHICH WE HAVE NO INTEREST IN DOING.

3 THAT'S ALL I HAVE. I'D BE HAPPY TO ANSWER
4 ANY QUESTIONS THAT YOU MIGHT HAVE.

5 CHAIRMAN FRAZEE: I THINK MY INITIAL
6 QUESTIONS ARE MORE APPROPRIATE TO BE ANSWERED BY
7 STAFF. I GUESS, TO LEGAL COUNSEL.

8 IF THIS BILL WERE TO PASS, THEN THAT WOULD
9 PUT OUR REGULATIONS IN CONFLICT WITH STATUTE, WOULD
10 IT NOT?

11 MS. TOBIAS: WELL, WE WOULD SIMPLY AMEND
12 OUR REGULATIONS TO REFLECT THAT.

13 CHAIRMAN FRAZEE: AND WHAT KIND OF TIME
14 LINES WOULD THAT KIND OF AMENDMENT REQUIRE?

15 MS. TOBIAS: WELL, ASSUMING THAT WE DID IT
16 ON AN EMERGENCY BASIS, I DON'T KNOW. THREE OR FOUR
17 MONTHS.

18 CHAIRMAN FRAZEE: DOES THAT MEAN THAT WE
19 WOULD HAVE TO CONTINUE THE STATUS QUO --

20 MS. TOBIAS: WELL, THE STATUTE WOULD
21 CONTROL. SO BASICALLY WHAT WE DO IS GO AHEAD AND
22 OPERATE AS IF OUR REGS WERE GOING TO -- THE REGS
23 ARE BASICALLY NOT VALID IF THE STATUTE'S BEEN
24 CHANGED. SO YOU'D OPERATE UNDER THAT, IF YOU
25 NEEDED TO, UNDER THE STATUTE, NOT UNDER YOUR REGS.

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1 CHAIRMAN FRAZEE: AND THE REQUIREMENT THAT
2 THIS INSURANCE BE APPROVED BY THE DEPARTMENT OF
3 INSURANCE IS IN REGS AND NOT IN STATUTE; IS THAT
4 CORRECT?

5 MS. TOBIAS: I HAVE IT IN REGS. I DON'T
6 REMEMBER IF IT'S IN STATUTE.

7 BASICALLY, AS I UNDERSTAND IT, AND MAYBE
8 STAFF WOULD WANT TO ADD TO THIS, I THINK WHAT THE
9 REASON THIS IS IN HERE IS TO MAKE SURE THAT SOMEONE
10 WITH THE EXPERTISE TO MAKE SURE THAT THIS IS VALID
11 INSURANCE AND THE RESOURCE IS THERE TO BACK IT UP,
12 OR WHY WE DID THIS. WE DON'T REALLY HAVE THE
13 RESOURCES OR THE SKILL OR THE LEVEL OF EXPERTISE TO
14 DO THIS.

15 I THINK THAT IF THE LEGISLATION DID GO
16 AHEAD AND BASICALLY SAY THAT WASTE MANAGEMENT COULD
17 USE THIS APPROACH, ALTHOUGH I THINK WE HAVE A
18 REALLY SUPERLATIVE FINANCIAL ASSURANCES STAFF, I
19 WOULD NOT SUGGEST THAT WE PUT THE RESPONSIBILITY
20 FOR EVALUATING, YOU KNOW, THE WHEREWITHAL OF AN
21 INSURANCE COMPANY ON OUR STAFF, BUT BASICALLY
22 CONTRACT OUT WITH SOME KIND OF ENTITY THAT COULD
23 EVALUATE THOSE AND BASICALLY REVIEW THE AUDITED
24 STATEMENTS, AND THINGS LIKE THAT. AND OF COURSE,
25 IF FINANCIAL ASSURANCE'S STAFF WANT TO CONTRADICT

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1 ME, THEY WOULD HAVE THAT EXPERTISE, BECAUSE THEY
2 REALLY --

3 MR. ADAMS: NO.

4 MS. TOBIAS: THEY'RE GREAT AT WHAT THEY
5 DO. BUT THAT'S A TOTALLY DIFFERENT SITUATION TO BE
6 DOING THAT KIND OF EVALUATION. AND QUITE FRANKLY,
7 THAT'S WHAT THE DEPARTMENT OF INSURANCE DOES, AND
8 THAT'S WHY OUR REGS SAY THAT THEY EVALUATE IT.
9 SO --

10 CHAIRMAN FRAZEE: AND DO WE HAVE THE
11 ABILITY TO CHARGE AN APPLICANT FOR THE COST OF THAT
12 EVALUATION?

13 MS. TOBIAS: I THINK WE WOULD WANT TO SEE
14 THAT THE LEGISLATION BASICALLY PROVIDES FOR THAT.
15 AS TO WHETHER WE COULD DO IT IN REGS, I'D HAVE TO
16 LOOK AT THAT. WE'RE PRETTY RESTRICTED ON THE KINDS
17 OF THINGS THAT WE CAN CHARGE FOR, BUT WE WOULD WANT
18 THAT REFLECTED IN THAT LEGISLATION.

19 MEMBER JONES: I HAVE A COUPLE OF
20 QUESTIONS.

21 I KNOW WE KEEP REFERRING TO OUR REGS, AND I
22 DON'T DO THIS TO PUT CHUCK ON THE SPOT. BUT IT
23 SEEMED TO ME THAT IT WAS A SUGGESTION AS PART OF
24 THE CONFERENCE THAT IT BE CALIFORNIA APPROVED BY
25 THE PARTIES THAT WERE INVOLVED IN THOSE

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1 DISCUSSIONS.

2 THE THING THAT PERPLEXES ME A LITTLE BIT IS
3 THAT YOU'RE -- THE WASTE MANAGEMENT'S FINANCIAL
4 ASSURANCES FOR KETTLEMAN'S, THEIR HAZARDOUS WASTE
5 SITE, IS THEIR CLOSURE, POSTCLOSURE INSURANCE IS
6 NGIC. IT IS THE SUBTITLE D -- IT FULFILLS SUBTITLE
7 D.

8 SO IT'S A LITTLE -- CHUCK'S PROBABLY THE
9 ONE THAT SAID IT NEEDS TO BE CALIFORNIA ONLY, IS
10 WHAT I HEARD. CALIFORNIA APPROVED OR SOMETHING
11 LIKE THAT. BUT, YOU KNOW, A TOXIC WASTE SITE, A
12 HAZARDOUS WASTE SITE IS -- FINANCIAL ASSURANCES
13 THAT ARE APPLICABLE, AND THAT ARE CONSIDERED TO BE
14 OKAY, ARE EXACTLY WHAT WE'RE DEBATING NOW FOR A
15 MUNICIPAL SOLID WASTE LANDFILL. THAT IN MY MIND IS
16 A HUGE PART OF THIS DISCUSSION, AS WELL AS ALL --
17 THROUGHOUT THE UNITED STATES.

18 DO YOU, GARTH OR RICHARD, DO YOU HAVE THE
19 DOLLAR AMOUNT OF -- WHAT ARE WE TALKING ABOUT AS
20 FAR AS -- IF THEY WERE TO DO CASH CONTRIBUTIONS FOR
21 CLOSURE, POSTCLOSURE FOR THEIR FACILITIES WITHIN
22 THE STATE, WHAT IS THIS INSURANCE INSURING? WHAT
23 IS THE DOLLAR AMOUNT OF LIABILITY POTENTIAL
24 EXPOSURE?

25 MR. ADAMS: I KNOW THAT WHEN THEY WERE

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1 DOING LETTER OF CREDITS THEY WERE UP AROUND 35
2 MILLION. AND WITH THE CHANGE IN THE CLOSURE PLAN
3 AT ALTAMONT AND A FEW OTHER THINGS, I THINK THEY'RE
4 PUSHING AROUND 100.

5 MEMBER JONES: 100 MILLION DOLLARS IN --
6 MR. ADAMS: AN ALTERNATIVE MECHANISM, AND
7 THEY WERE ALSO USING THE MEANS TEST FOR
8 POSTCLOSURE, WHICH BASICALLY IS NO CASH
9 CONTRIBUTIONS. SO IT WOULD ONLY BE THE CASH
10 CONTRIBUTIONS FOR CLOSURE. AND FOR THE POSTCLOSURE
11 ASPECT OF THAT, THEY WERE USING FINANCIAL MEANS
12 TEST, WHICH IS BASICALLY SAYING THE WHEREWITHAL OF
13 THE COMPANY WILL TAKE CARE OF THE POSTCLOSURE
14 PERIOD.

15 MEMBER JONES: OKAY. SO FOR THE CLOSURE
16 PART, WHAT ARE WE LOOKING AT?

17 MR. ADAMS: WE HAVE TO GET -- COME BACK TO
18 YOU WITH EXACTLY WHAT THAT WOULD MEAN. WE DIDN'T
19 BREAK THAT OUT.

20 MEMBER JONES: I THINK IT'S IMPORTANT TO
21 THE DISCUSSION. IF IT'S, YOU KNOW, 50 MILLION
22 DOLLARS, AND WE DON'T EXTEND THIS, ARE WE GOING TO
23 GIVE THEM 30 DAYS TO GIVE US A LETTER OF CREDIT, OR
24 SOME OTHER APPLICABLE MECHANISM TO SUPPLANT THAT
25 INSURANCE? AND WHAT IS THAT GOING TO COST?

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1 MR. ADAMS: WE'D BE A LOT MORE GENEROUS
2 THAN THAT AND GIVE THEM 60. THE REGS ALLOW 60
3 DAYS. THE REGS ALLOW 60 DAYS FOR AN OPERATOR TO
4 SWITCH MECHANISMS WHEN ONE CEASES TO EXIST OR THEY
5 OPT TO CHANGE ON THEIR OWN.

6 MEMBER JONES: IT'S A LOT. I MEAN, TO BUY
7 THESE KINDS OF LETTERS OF CREDIT ARE VERY, VERY
8 EXPENSIVE, WHICH I DON'T HAVE A PROBLEM WITH. I
9 MEAN, IN MY BRIEFING, WE HAD A GOOD DISCUSSION, YOU
10 KNOW. THE ATTORNEY SAID, YOU KNOW, THIS IS ONLY
11 FAIR. AND I HAD THE DISCUSSION ABOUT WHAT IT'S
12 LIKE TO WRITE A CHECK, YOU KNOW. AND WE USED TO
13 FUND IT TWO TO ONE. SO WE NOT ONLY WROTE A CHECK,
14 WE DOUBLED IT. SO CLEARLY THERE ARE ADVANTAGES AND
15 DISADVANTAGES TO INSURANCE.

16 BUT OUT OF FAIRNESS, TO GO FROM 100 MILLION
17 DOLLARS, OR WHATEVER THE NUMBER IS, AND I DIDN'T
18 KNOW THE NUMBER, THAT'S WHY I'M ASKING, IF YOU
19 COULD BRING THAT TO THE BOARD MEETING, THAT WOULD
20 BE HELPFUL. BUT IF YOU'RE LOOKING AT 35 TO 100
21 MILLION DOLLARS IN INSURANCE, AND THE WHEREWITHAL
22 TO SUPPLANT THAT WITH SOME OTHER MECHANISM WITHIN
23 90 DAYS, TAKES A LITTLE BIT OF EFFORT. I MEAN,
24 THERE IS SOME BIG MONEY. AND I JUST -- I THINK
25 THAT'S PART OF THE DISCUSSION AS TO WHETHER OR NOT

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1 WE LET THIS CONTINUE TO RIDE OUT.

2 AT THE SAME TIME, I DON'T WANT TO EXPOSE
3 PEOPLE IN CALIFORNIA TO A LIABILITY OF 100 MILLION
4 DOLLARS THAT WE DON'T HAVE SOMETHING IN THERE
5 THAT'S VALID. SO IT'S A DOUBLE-EDGED SWORD. BUT
6 IT IS NOT EASY TO GO DOWN AND GET A LETTER OF
7 CREDIT FOR 50 MILLION BUCKS WITHOUT SPENDING SOME
8 TIME AND SOME MONEY. AND WHILE THAT'S PART OF
9 DOING BUSINESS, I JUST WANT TO MAKE SURE THAT
10 WE'RE, YOU KNOW, MOVING IN A DIRECTION THAT DOESN'T
11 UNFAIRLY CHANGE THOSE SCALES, YOU KNOW, JUST SLAM.

12 MR. ADAMS: WE WILL COME BACK AND TELL YOU
13 THE CLOSURE COST ESTIMATE. AND I WOULD ASSUME THAT
14 THEY WOULD AGAIN OPT FOR A MEANS TEST FOR
15 POSTCLOSURE, IN ORDER FOR THEM NOT TO DO THAT IN A
16 SHORT PERIOD OF TIME. WE'LL COME BACK AND LET YOU
17 KNOW THAT ASPECT.

18 ONE OF THE OTHER ISSUES THAT'S COME UP
19 PROBABLY IN JANUARY ON THIS, IS DURING THE
20 EXTENSION PERIODS OR THIS INTERIM PERIOD, MAJOR
21 PERMIT ACTIVITIES COMING BEFORE THE BOARD FOR
22 CONSIDERATION. AND AS YOU KNOW, WE HAD A COUPLE
23 DURING THIS 180-DAY PERIOD. ONE IS A RELATIVELY
24 MINOR ONE, AND WE HAD A -- I BELIEVE IT WAS A
25 KETTLEMAN SITE THAT CAME UP, AND WASTE MANAGEMENT

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1 OPTED TO PROVIDE A SURETY BOND FOR THAT ONE IN
2 ORDER TO TAKE THIS DISCUSSION OUT OF THAT PERMIT
3 ISSUE, AND WE APPRECIATED THAT. AND I THINK THAT
4 ANY KIND OF EXTENSION UNDER CONSIDERATION WOULD BE
5 SEEKING WASTE MANAGEMENT NOT TO COME FORWARD WITH
6 SOME MAJOR PERMIT ACTIVITIES DURING ANY KIND OF
7 EXTENSION PERIOD.

8 MEMBER JONES: OR COME FORWARD WITH THEM
9 BUT BE PREPARED TO OFFER A SURETY BOND?

10 MR. ADAMS: OR SOMETHING AS AN
11 ALTERNATIVE. NOT AT ALL, BUT SOMETHING AS AN
12 ALTERNATIVE, LIKE THEY DID. AND I THINK THAT
13 WAS -- THAT WORKED OUT REAL WELL.

14 MEMBER JONES: AND YOU'VE GOT TIME BETWEEN
15 NOW AND THE BOARD MEETING, BUT THOSE WOULD BE THE
16 QUESTIONS THAT I'D LIKE TO SEE FOR THE RELATIVE
17 TIME AND EFFORT TO GET THIS.

18 MR. ADAMS: WE CAN DO THAT.

19 MR. CHANDLER: MR. CHAIRMAN, MAY I ASK A
20 QUESTION? I'LL ASK THIS OF STAFF, OR MAYBE MR.
21 WHITE CAN ENLIGHTEN ME.

22 CHAIRMAN FRAZEE: YES.

23 MR. CHANDLER: DO WE KNOW IF THE DEPARTMENT
24 OF INSURANCE HAS TAKEN A LOOK AT THE FIGUEROA BILL,
25 AND ARE THEY COMFORTABLE WITH IT IN ALL ASPECTS,

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1 NUMBER ONE. AND NUMBER -- I GUESS I'M ASKING THE
2 QUESTION, ARE THEY COMFORTABLE WITH TRANSFERRING TO
3 THIS BOARD THE RESPONSIBILITY TO EVALUATE THE
4 CAPTIVE INSURANCE CARRIERS WITH REGARD TO THEIR
5 WHEREWITHAL, NUMBER ONE.

6 AND NUMBER TWO, WAS THERE EVER ANY
7 DISCUSSION, MR. WHITE, OF HAVING THE DEPARTMENT OF
8 INSURANCE TAKE THE RESPONSIBILITY OF EVALUATING
9 THESE COMPANIES AND PROVIDE US WITH THEIR ANALYSES
10 FOR OUR PURPOSES?

11 SO THAT'S MY QUESTION OF STAFF. AND IF
12 YOU'RE NOT CLEAR, MAYBE MR. WHITE CAN --

13 MR. ADAMS: I THINK WE CAN ANSWER THAT.
14 RICHARD HAS BEEN IN CONTACT WITH THE DEPARTMENT OF
15 INSURANCE, HAS BEEN MADE AWARE OF THE BILL, AND WE
16 ARE KIND OF WONDERING WHY THE BILL SEEKS TO AMEND
17 THE PRC AS OPPOSED TO BEING THE INSURANCE CODE AS
18 WELL, OR WHY NOT THAT CODE INSTEAD OF THE PRC. AND
19 THAT'S ALSO COME UP AS A WHY OR WHY NOT.

20 I'LL LET RICHARD ADDRESS THE DEPARTMENT OF
21 INSURANCE CONVERSATIONS.

22 MR. CASTLE: I'VE HAD A NUMBER OF
23 CONVERSATIONS WITH LEGAL COUNSEL AT THE DEPARTMENT
24 OF INSURANCE. THIS IS NOT THEIR CHIEF COUNSEL.
25 IT'S MY UNDERSTANDING THERE ARE ONGOING DISCUSSIONS

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1 BETWEEN THE DIFFERENT COUNSEL AT THE DEPARTMENT OF
2 INSURANCE ABOUT JUST HOW THIS SHOULD BE HANDLED.
3 THEY HAVE NOT TAKEN AN OFFICIAL OPINION ON WHETHER
4 THEY WOULD LIKE TO SEE IT JUST SET IN THE PRC, OR
5 WHETHER IT SHOULD BE MOVED BACK.

6 THE COUNSEL I'M DEALING WITH IS SUGGESTING
7 THAT ANY LANGUAGE SUCH AS THIS SHOULD BE MOVED BACK
8 TO THE INSURANCE CODE, SINCE IT'S INSURANCE
9 ISSUES. OBVIOUSLY THE OTHER SIDE OF THE COIN IS
10 THAT THERE'S OTHER COUNSEL WITH OPPOSITE OPINION AT
11 THE DEPARTMENT OF INSURANCE. SO I DON'T HAVE A
12 FINAL ANSWER YET. WE'LL ALL GET THE SAME FINAL
13 ANSWER WHEN IT COMES OUT.

14 MR. CHANDLER: DO THEY HAVE A POSITION ON
15 THE BILL YET? THEY FORMALLY HAVEN'T TAKEN A
16 POSITION?

17 MR. CASTLE: THEY HAVE NOT FORMALLY TAKEN A
18 POSITION. AND THAT'S WHERE THEIR INTERNAL
19 DISCUSSIONS ARE STILL GOING ON. WE DON'T HAVE A
20 FINAL -- I CAN TELL YOU WHAT THE ONE COUNSEL I'M
21 DEALING WITH BELIEVES ABOUT IT, BUT THAT IS NOT THE
22 DEPARTMENT'S OPINION. AND IT'S OUR UNDERSTANDING
23 THE DEPARTMENT HAS NOT TAKEN AN OPINION YET.

24 MR. CHANDLER: OKAY. THANK YOU.

25 MR. WHITE: CHUCK WHITE AGAIN. WE HAVE HAD

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1 EXTENSIVE DISCUSSIONS. I DON'T KNOW THE INDIVIDUAL
2 RICH IS REFERRING TO. BUT WE HAVE HAD DISCUSSIONS
3 WITH THE CHIEF COUNSEL OF THE DEPARTMENT OF
4 INSURANCE. THE STAFF COUNSEL THAT IS ASSIGNED TO
5 THIS PARTICULAR REVIEW, THE CHIEF OF THE FINANCIAL
6 ANALYSIS UNIT, THE CHIEF OF THE ENFORCEMENT
7 DIVISION. THEY HAVEN'T GIVEN IT TO US IN WRITING.

8 BUT THEY HAVE TOLD US THAT THEIR FEELING
9 WOULD BE IT WOULD BE BETTER NOT TO MODIFY THE
10 INSURANCE CODE. HOWEVER, THAT'S THEIR CALL. IF
11 THEY WANTED TO HAVE A BILL THAT WOULD MODIFY THE
12 INSURANCE CODE AND GO INTO THAT PROCESS TO CREATE A
13 SEPARATE --

14 THE PROBLEM THE DEPARTMENT OF INSURANCE
15 STAFF HAS, ANY TIME YOU ASK THEM TO VIEW INSURANCE,
16 THEY VIEW IT AS IF THE WAY THE INSURANCE CODE IS
17 WRITTEN FOR COMMERCIAL INSURANCE COMPANIES. THEY
18 HAVE NO OTHER WAY, OR NO OTHER EXPERIENCE OF
19 LOOKING AT INSURANCE. BECAUSE THE CALIFORNIA
20 INSURANCE CODE PROVIDES THAT SELF-PROCURED
21 INSURANCE DOES NOT REQUIRE LICENSING, REVIEW AND
22 APPROVAL BY THE DEPARTMENT OF INSURANCE. SO
23 THEY'VE NEVER LOOKED AT CAPTIVES. THEY DON'T KNOW
24 CAPTIVES. THEY DON'T HAVE ANY WAY OF LOOKING AT AN
25 INSURANCE COMPANY EXCEPT FOR THOSE THAT TRANSACT

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1 BUSINESS, AND THEN HAVE TO COMPLY WITH THE SPECIFIC
2 REQUIREMENTS OF THE INSURANCE CODE.

3 THEIR REVIEW IS BASICALLY COMPARED CHAPTER
4 AND VERSE OF OUR INSURANCE COMPANY WITH THE
5 REQUIREMENTS OF THE INSURANCE CODE THAT ARE SET UP
6 TO REVIEW AND APPROVE COMMERCIALS. AND IT'S
7 BASICALLY -- THEY COINED THE TERM, THIS IS A SQUARE
8 PEG IN A ROUND HOLE. DOESN'T FIT. THIS IS NOT
9 WHAT CALIFORNIA INSURANCE CODE IS CURRENTLY SET UP
10 TO REVIEW. THIS IS THEIR TERMINOLOGY, NOT OURS.

11 WITH RESPECT TO THE REVIEW, THERE IS
12 PROVISIONS IN SUBTITLE D. IT'S THE SAME PROVISIONS
13 IN THE CALIFORNIA HAZARDOUS WASTE CONTROL LAWS THAT
14 SAYS YOU HAVE TO HAVE AN INSURANCE COMPANY THAT'S
15 BEEN LICENSED BY AT LEAST ONE STATE.

16 THIS IS A LICENSED INSURANCE COMPANY IN THE
17 STATE OF VERMONT. THE STATE OF VERMONT HAS A VERY
18 RIGOROUS PROGRAM, ONE FOR REVIEWING COMMERCIAL
19 INSURANCE COMPANIES THAT OPERATE IN THE STATE OF
20 VERMONT, BUT ALSO CAPTIVE INSURANCE COMPANIES.
21 THEY HAVE A SEPARATE PROGRAM SET UP SPECIFICALLY
22 FOR REVIEWING AND EVALUATING CAPTIVES.

23 WE THINK IT'S A VERY PREMIER PROGRAM. WE
24 WOULD URGE THIS BOARD, AS DOES THE DEPARTMENT OF
25 TOXICS, TO RELY UPON THE LICENSING PROCEDURES THAT

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1 ARE SET UP IN THESE OTHER STATES THAT ARE
2 SPECIFICALLY SET UP FOR REVIEWING CAPTIVE INSURANCE
3 COMPANIES, RATHER THAN REQUIRING CALIFORNIA TO NOW
4 DRAW UP A SEPARATE INSURANCE PROCESS FOR CAPTIVES,
5 SPECIFICALLY FOR THIS ISSUE THAT'S BEFORE THIS
6 BOARD, THAT'S PROBABLY GOING TO ONLY AFFECT A
7 HANDFUL OF COMPANIES AND FACILITIES. AND IT'S
8 FULLY COMPLIANT WITH SUBTITLE D. FULLY COMPLIANT
9 WITH THE HAZARDOUS WASTE REGULATIONS OF THIS STATE
10 FOR PROVIDING FINANCIAL ASSURANCE. THIS IS A SAFE
11 AND SECURE VEHICLE. THERE'S NEVER BEEN A CLAIM
12 UNDER THE INSURANCE COMPANY OR ANY OF THE INSURANCE
13 COMPANIES THAT ARE CURRENTLY OPERATED TO PROVIDE
14 THIS FINANCIAL ASSURANCE IN THE UNITED STATES.

15 WE'RE HAPPY TO WORK WITH THE BOARD AND WORK
16 OUT DETAIL LANGUAGE. WITH RESPECT TO THE
17 DEPARTMENT OF INSURANCE, THEY'RE AWARE OF THE
18 BILL. THEY HAVE NOT TAKEN A FORMAL POSITION ON IT
19 YET. WE HAVE PROVIDED THEM, AS SOON AS WE REALIZED
20 THAT THIS WAS GOING TO BE A -- PROBABLY THE BEST
21 OPTION AVAILABLE TO US, AND WE CERTAINLY ENCOURAGE
22 THEM TO OFFER ANY SUGGESTIONS.

23 THEY'VE INDICATED TO US THAT IT'S MORE
24 APPROPRIATE, THEY FEEL, THE INDIVIDUALS WE'VE BEEN
25 SPEAKING TO ANYWAY, IT'S MORE APPROPRIATE FOR THIS

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1 BOARD TO REVIEW THIS TYPE OF INSURANCE MECHANISM,
2 PROVIDED THAT THE INSURANCE COMPANY IS NOT
3 TRANSACTING BUSINESS IN CALIFORNIA, MEANING SELLING
4 TO OTHER PARTIES, WHICH WE HAVE NO INTENTION OF
5 DOING.

6 I MEAN, IN ORDER FOR US TO BE COMMERCIAL
7 INSURANCE, WE COULDN'T USE LETTERS OF CREDIT, WHICH
8 THIS BOARD ALLOWS, FOR FINANCIAL ASSURANCE. WE'D
9 HAVE TO GET INVOLVED IN MAINTAINING A STOCK
10 PORTFOLIO, AS DO MOST COMMERCIAL INSURANCE
11 COMPANIES OF OTHER COMPANIES' STOCK. WE'RE NOT
12 INTERESTED IN MAINTAINING THE STOCK PORTFOLIO OF
13 OTHER COMPANIES' STOCK. WE'RE INTERESTED IN
14 PROVIDING FINANCIAL ASSURANCE THAT MEETS SUBTITLE D
15 REQUIREMENTS IN THIS COUNTRY.

16 CHAIRMAN FRAZEE: OKAY. IS IT YOUR DESIRE
17 TO MAKE A RECOMMENDATION, OR --

18 MEMBER JONES: I MEAN, I'M INCLINED TO GIVE
19 AN EXTENSION WHILE WE WORK THIS THING OUT. BUT I
20 WOULD LIKE TO HEAR FROM STAFF SOME OF THE NUMBERS
21 AND THINGS THAT WE TALKED ABOUT. AND OBVIOUSLY I
22 THINK THE DISCUSSION HAS TO HAPPEN AT THE BOARD
23 MEETING. I THINK I WOULD PREFER TO MOVE IT TO THE
24 BOARD FOR MORE DISCUSSION RATHER THAN -- I DON'T
25 KNOW.

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1 MR. CHANDLER: RICHARD, IF WE'RE IN THIS
2 INTERIM PERIOD, I'M TRYING TO GATHER A LITTLE BIT
3 MORE INFORMATION FOR THE FULL BOARD MEETING. I
4 GUESS I'D LIKE YOU TO ASK THE DEPARTMENT OF
5 INSURANCE IF THEY WOULD BE OPEN TO AN INTERAGENCY
6 AGREEMENT OR A MEMORANDUM OF UNDERSTANDING.

7 BECAUSE AS I UNDERSTAND IT, THEY'RE SAYING
8 THEY DON'T USE THE PARLANCE WE'VE HEARD FROM SOME
9 STATE AGENCIES. THEY DON'T OCCUPY THE FIELD ON
10 REVIEWING THESE CAPTIVE CARRIERS, BECAUSE IT
11 DOESN'T FIT WITHIN THEIR STATUTORY CONSTRAINTS, IF
12 YOU WILL.

13 BUT WOULD THEY BE WILLING TO CARRY OUT
14 THEIR EXPERTISE FOR US UNDER SOME TYPE OF AGREEMENT
15 THAT FITS OUR PARAMETERS, NOT THEIRS, IN HAVING TO
16 EVALUATE THESE CAPTIVE CARRIERS FOR PURPOSES OF OUR
17 REGULATORY REQUIREMENTS. AND IF SO, DO YOU HAVE
18 ANY ESTIMATE OF WHAT WOULD THAT BE? WHAT WOULD THE
19 COST BE? OR CONTACT THIS VERMONT ENTITY, SINCE
20 THEY HAVE A SEPARATE PROGRAM THAT EVALUATES CAPTIVE
21 CARRIERS, AND SEE WHAT WOULD THE CHARGE BE FOR US
22 TO ENGAGE IN AN AGREEMENT WITH THEM ON AN ONGOING
23 BASIS?

24 MEMBER JONES: THEY'RE THE ONES THAT
25 LICENSED THEM, THOUGH. THE VERMONT ENTITY IS THE

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1 ONE THAT LICENSED WASTE MANAGEMENT.

2 MR. CHANDLER: BUT AS NEW PROPOSALS COME
3 IN, PRESUMABLY OTHERS COULD APPLY, AND WE GET THE
4 BACKGROUND ON THESE CAPTIVE CARRIERS, WE'RE GOING
5 TO NEED UNDER, AS I SEE THE LEGISLATION, TO HAVE
6 THE EVALUATE THEM. AND I GUESS, FOR MY PURPOSES,
7 I'D LIKE TO BE ABLE TO KNOW JUST WHAT THE COST IS
8 GOING TO BE. WHETHER WE DO AN OUTSIDE CONTRACT OR
9 AN INTERAGENCY AGREEMENT WITH THE DEPARTMENT OF
10 INSURANCE, OR SOME OTHER ENTITY THAT CARRIES THIS
11 EXPERTISE, WHAT WOULD THAT LOOK LIKE?

12 I'D LIKE TO SEE IF WE COULD COME UP WITH
13 ANY INFORMATION IN THAT AREA. THAT WOULD BE
14 HELPFUL.

15 MEMBER JONES: MR. CHAIRMAN, I DON'T HAVE
16 ANY PROBLEM MAKING A RECOMMENDATION. WHAT I'M
17 STILL NOT COMPLETELY AWARE OF, OR COMPLETELY, OUR
18 PROGRAM FOR THE STATE OF CALIFORNIA FOR HOW WE
19 MANAGE SOLID WASTE, WAS WRITTEN -- I MEAN, WAS
20 APPROVED BY U.S. EPA. SO WE'VE PATTERNED IT, WE'VE
21 CHANGED IT, WE'VE DONE THIS, WE'VE DONE THAT. BUT
22 WE STAY WITHIN THE GUIDELINES. WHEN THE INSURANCE
23 MECHANISM FOR SUBTITLE D THROUGHOUT THE WHOLE
24 UNITED STATES THAT THIS WORKS FOR, BUT BECAUSE OF
25 OUR LANGUAGE THAT IT HAS TO BE CALIFORNIA APPROVED,

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1 CREATES THE PROBLEM.

2 IS IT EASIER TO JUST GO BACK AND FIX OR
3 HAVE THE DISCUSSION AMONG ALL THE STAKEHOLDERS
4 TAKING OUT CALIFORNIA AND JUST SAYING SUBTITLE D
5 APPROVED? IS THAT WORTH TALKING ABOUT? MAYBE --
6 BECAUSE I -- WE HAVE STAFF WORKING WITH THE
7 COMPANY. THEY'VE BOTH GOT EACH OTHER UPSIDE DOWN A
8 COUPLE OF TIMES. THEN THEY WENT THIS WAY, THEN
9 THEY GOT EACH OTHER UPSIDE DOWN A COUPLE OF TIMES.

10 MAYBE WE JUST OUGHT TO THINK ABOUT WHAT'S
11 CAUSING THE PROBLEM AND HOW EASY IS IT TO FIX THE
12 PROBLEM. IF THIS WORKS EVERYWHERE ELSE IN THE
13 UNITED STATES EXCEPT CALIFORNIA BECAUSE OF THAT
14 WORDING, DO WE LOSE ANY PROTECTION FOR OUR CITIZENS
15 BY RELYING ON THE FEDERAL THRESHOLD?

16 I MEAN, I JUST -- IT WOULD SEEM TO ME THAT
17 THAT WOULD BE -- MAYBE AN EASIER WAY, OR A
18 DIFFERENT WAY, OR ONE THAT AT LEAST ENSURES THE
19 PEOPLE OF CALIFORNIA THAT THEY HAVE MET THE
20 STANDARD THAT WORKED EVERYWHERE ELSE IN THE UNITED
21 STATES. I DON'T KNOW.

22 MR. CHANDLER: WELL, THAT APPROACH CALLS
23 FOR US BRINGING THAT SPECIFIC SECTION OF OUR
24 REGULATIONS FORWARD FOR SOME TYPE OF PUBLIC
25 DISCUSSION TO SEE IF YOU WANT TO MODIFY IT OR

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1 ELIMINATE IT OR WHAT HAVE YOU.

2 AS MR. WHITE INDICATED, THAT'S CLEARLY ONE
3 OF THE OPTIONS. THAT WOULD PROBABLY EVEN PRECLUDE,
4 THEN, THE STATUTORY FIX THAT THEY'RE PURSUING.
5 IT'S A REGULATORY FIX. THAT'S A PREROGATIVE OF THE
6 BOARD TO BRING THAT SECTION OF REGULATION FORWARD
7 FOR A DISCUSSION.

8 MEMBER JONES: I'M NOT COMFORTABLE WITH THE
9 DEPARTMENT OF INSURANCE NOT -- WITH ANY COMPANY
10 COMING TO THIS WASTE BOARD, RIGHT, WE DO KNOW
11 GARBAGE AND RECYCLING AND DIVERSION. BUT TO SIT
12 THERE AND LOOK AT THAT STUFF AND MAKE A
13 DETERMINATION BASED ON OUR STAFF AND ON SOME
14 OUTSIDE AGENCY SAYING THIS IS GOING TO WORK TO MAKE
15 A DETERMINATION THAT WILL ACCEPT THIS FORM OF
16 INSURANCE.

17 AND THAT'S WHAT HAPPENS IF THAT STATUTE
18 GOES THROUGH. IF WE RELY ON THE FEDERAL STANDARD,
19 THEN IT WOULD SEEM TO ME THAT IF IT WORKS
20 EVERYWHERE ELSE, AND WE'RE COMFORTABLE THAT IT
21 MEETS THE FEDERAL STANDARD, THEN WE HAVE ENSURED
22 THE PUBLIC'S PROTECTION. AT LEAST IT WOULD SEEM TO
23 SIMPLIFY THE DEBATE, AND IT KIND OF GETS TO THE
24 HEART OF THE ISSUE.

25 MR. CASTLE: CAN I OFFER A LITTLE BIT ABOUT

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1 WHY THAT'S IN THERE?

2 MEMBER JONES: SURE.

3 MR. CASTLE: BACK IN '91, WHEN THE BOARD
4 THAT WAS HERE IN '91, DEVELOPED THE LIABILITY
5 REGULATIONS, OBVIOUSLY WE'VE HAD DISCUSSIONS BEFORE
6 ALSO, THAT CHUCK HAD MADE THE RECOMMENDATION THAT
7 WE AS STAFF WERE OFFERING A NUMBER OF DIFFERENT
8 TYPES OF TESTS FOR INSURANCE COMPANIES. AND
9 CHUCK'S REQUEST TO THE BOARD, WHICH WE ACCEPTED
10 ALSO, WAS WHY ARE WE DOING THIS? WHY ARE WE AT THE
11 WASTE BOARD TRYING TO DO INSURANCES WHICH IS WHAT
12 WE'RE ALL WRESTLING WITH NOW. SEND IT TO THE
13 DEPARTMENT OF INSURANCE. LET THEM DO IT. THAT'S
14 WHY THE LANGUAGE IS THERE.

15 BUT THAT'S NOT WHERE I'M GOING RIGHT NOW.
16 THE REASON THAT WE EVEN HAD THAT DISCUSSION TO
17 BEGIN WITH IS BECAUSE IN '91 AND LATE '80s, AND
18 CONTINUING IN MANY PARTS OF THE COUNTRY, THERE'S A
19 CONCERN ABOUT THE VALIDITY OF THE NUMBER OF
20 INSURANCE COMPANIES, AND IT WAS A DEFINITE PROBLEM
21 IN CALIFORNIA ALSO, THAT THERE'S COMPANIES FROM
22 OUTSIDE THE U.S. THAT WERE ELIGIBLE TO PROVIDE
23 INSURANCE IN THE U.S. AND THEY HAD A PIECE OF
24 PAPER, BASICALLY, THEY WERE BASED -- NOT JUST
25 OFFSHORE, BUT BASICALLY IN THE CAYMAN ISLANDS, AND

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1 THEIR RULES AND REGS ARE NOT UNITED STATES RULES
2 AND REGS. AND THEY COULD BE A LEGITIMATE COMPANY
3 ON PAPER, PROVIDE INSURANCE IN THE U.S., AND WHEN
4 THE POLICYHOLDER TRIED TO MAKE A CLAIM ON THAT
5 INSURANCE, THERE WAS NO COMPANY THERE.

6 AND FURTHERMORE, IN SOME OF THESE ISLAND
7 COUNTRIES, IT'S A CRIME TO INVESTIGATE INTO WHO
8 OWNS THE COMPANY OR WHO FINANCES THE COMPANY. IT'S
9 THAT FLAKY IN SOME INSTANCES.

10 THE DEPARTMENT OF INSURANCE HAS TAKEN MAJOR
11 STEPS OVER THE LAST FEW YEARS TO DEVELOP THEIR OWN
12 REGULATIONS ABOUT ALL INSURANCE THAT'S TRANSACTED
13 IN THE STATE THAT HAS TO GO THROUGH A BROKER OR AN
14 INSURANCE COMPANY. SO THAT'S WHY THEY HAVE
15 ADMITTED CARRIERS INELIGIBLE TO PROVIDE COVERAGE IN
16 THE U.S., OR IN CALIFORNIA THROUGH A SURPLUS
17 BROKER, BECAUSE THAT GIVES THEM ACCESS TO THE
18 COMPANY'S FINANCIAL CONDITIONS. AND THE COMPANIES
19 THAT ARE DOMICILED OUTSIDE THE U.S. HAVE TO MAKE
20 MAJOR CASH DEPOSITS IN THE U.S. SO THAT THERE'S
21 SOME FUNDS HERE.

22 THE FEDERAL REGULATIONS STILL DO NOT
23 RECOGNIZE AN OFFSHORE, OUT OF COUNTRY INSURANCE
24 COMPANY AS ANYTHING DIFFERENT. AS LONG AS THEY'RE
25 ADMITTED IN A STATE OR ELIGIBLE TO PROVIDE COVERAGE

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1 IN A STATE UNDER THE FEDERAL REGS, THEY --

2 MEMBER JONES: ADMITTED OR LICENSED?

3 MR. CASTLE: IT'S LICENSED. BUT IT'S OR
4 ELIGIBLE. AND THE OR ELIGIBLE IS WHERE WE GET THE
5 PROBLEM. WE HAD THE PROBLEM IN '91. AND WE DON'T
6 WANT TO JUST FALL BACK TO JUST THE FEDERAL
7 REQUIREMENTS. THEY HAVE TO DO IT ON A NATION-WIDE
8 BASIS. AND WE'VE NEVER SAT HERE TO TRY AND SAY
9 NGIC IS BAD. WE HAD A STANDARD THAT WAS SET
10 IN '91. THAT'S ALL WE'RE TRYING TO DO. AND WE
11 DON'T HAVE A PROBLEM WITH AMENDING THE STANDARD.
12 IT'S JUST THAT WE WANT TO MAKE SURE WE DON'T FALL
13 ALL THE WAY BACK TO A STANDARD THAT WOULD ALLOW A
14 PIECE OF PAPER COMPANY TO WRITE INSURANCE.

15 AND WE'RE NOT SAYING NGIC IS JUST A PIECE
16 OF PAPER. DON'T HEAR THAT. BUT THERE WAS A DEEPER
17 REASON FOR WHY WE WENT TO CALIFORNIA FOR THE REVIEW
18 OF THE INSURANCE COMPANY OTHER THAN JUST STAFF WHO
19 WANTED TO ADD AN ADDITION LAYER. THAT WAS NOT THE
20 INTENT.

21 MEMBER JONES: SO UNDER SUBTITLE D, ONE OF
22 THESE COMPANIES OFFSHORE COULD WRITE A POLICY FOR
23 CLOSURE, POSTCLOSURE?

24 MR. CASTLE: UNDER SUBTITLE D AND UNDER
25 SUBTITLE C. BOTH. IF THEY'RE LICENSED OR ELIGIBLE

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1 TO WRITE COVERAGE. IT'S NOT THE LICENSE WE'RE
2 WORRIED ABOUT. LICENSE MEANS THAT THE STATE HAS --

3 MEMBER JONES: GONE THROUGH SOME STEPS?

4 MR. CASTLE: YEAH. WHATEVER THOSE MAY BE.
5 WE DON'T KNOW WHAT THEY ARE. BUT I MEAN, THERE'S
6 50 STATES. SO IT COULD BE ALMOST ANYTHING IN ANY
7 OF THE STATES. THERE SHOULD BE SOME LEVEL OF
8 SECURITY THERE. BUT THE ELIGIBLE PROVIDED COVERAGE
9 WAS WHERE THERE WAS THE CONCERN.

10 MEMBER JONES: SO IT'S EITHER OR?

11 MR. CASTLE: YES. IT'S NOT AN AND, IT'S
12 OR. SO THIS OFF-SITE COMPANY COULD COME IN. AND
13 AGAIN, AS RELAYED THROUGH THE DEPARTMENT OF
14 INSURANCE, THE REASON THAT THEY AREN'T CONCERNED
15 ABOUT NGIC PROVIDING COVERAGE TO WASTE MANAGEMENT
16 IS BECAUSE THE REGULATIONS ARE SET UP FOR THE
17 POLICYHOLDER'S CONCERN.

18 IF YOU AS AN INDIVIDUAL STILL, YOU CAN GO
19 BUY YOUR HOMEOWNER'S INSURANCE FROM ANY OF THESE
20 CAYMAN ISLAND COMPANIES. AND IT'S YOUR PROBLEM IF
21 YOU END UP WITH A CLAIM AND THEY'RE NOT THERE. THE
22 DEPARTMENT OF INSURANCE WILL SAY, WELL, YOU WENT
23 OUTSIDE OF OUR CONTROL, SO THAT WAS YOUR OWN
24 CONCERN.

25 OUR CONCERN IS THAT WE NEED A RESPONSIBLE

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1 AGENCY TO LOOK AT IT. BECAUSE IT'S NOT FOR THE
2 BOARD'S CONCERN, IT'S NOT FOR WASTE MANAGEMENT,
3 IT'S FOR THE PEOPLE.

4 MEMBER JONES: I APPRECIATE THAT. BECAUSE
5 I DIDN'T REALIZE THAT -- IT SEEMED TO ME IF IT MET
6 FEDERAL STANDARD, BUT IF THE STANDARD IS NOT --
7 PUTS THE PUBLIC AT RISK, THEN THAT DOESN'T WORK FOR
8 ME.

9 MR. ADAMS: A SPECIFIC EXAMPLE, I KNOW IT'S
10 BEEN AWHILE, MR. CHANDLER MAY RECALL IT, AND SOME
11 OF THE OTHER FOLKS THAT HAVE BEEN AROUND, BUT THERE
12 WAS A MAJOR OPERATOR YEARS AGO WHO WANTED TO USE
13 INSURANCE FROM AN OFFSHORE COMPANY. THIS IS A PART
14 OF WHY -- HOW IT ALL CAME UP. AND THAT'S WHEN SOME
15 OF THE FOLKS THAT WERE HERE WERE -- I AM AWARE OF
16 THOSE SITUATIONS, AND THEY WERE DEALING WITH IT AT
17 THE HIGHER LEVELS OF CALIFORNIA GOVERNMENT AND
18 INDICATED THAT THE OFFSHORE, SOME WERE GOOD, AND
19 OBVIOUSLY SOME WERE, YOU KNOW, MAY NOT BE AS GOOD.

20 AND THERE WAS ONE WHO DIDN'T WANT TO DO
21 THAT. AND IT ALL CAME IN TO ABOUT THE SAME TIME AS
22 TO THAT.

23 MR. WHITE: ONE COMMENT, IF I MAY. CHUCK
24 WHITE AGAIN.

25 CHAIRMAN FRAZEE: OKAY. LET'S TAKE A

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1 LITTLE BREAK HERE.

2 (BREAK TAKEN IN PROCEEDINGS.)

3 CHAIRMAN FRAZEE: OKAY. WE'LL CALL THE
4 MEETING TO ORDER AGAIN. AND MR. WHITE WAS
5 ADDRESSING --

6 MR. WHITE: AGAIN, CHUCK WHITE WITH WASTE
7 MANAGEMENT.

8 I JUST WANTED TO MAKE ONE POINT. I
9 UNDERSTAND THE HISTORY IS YOU'RE TRYING TO SPELL
10 OUT THE PROBLEMS WITH OFFSHORES. BUT THE
11 LEGISLATION THAT WE'RE SUGGESTING WOULD BASICALLY
12 SAY THE INSURANCE COMPANY HAS TO BE DOMESTICALLY
13 DOMICILED IN THE UNITED STATES. SO THAT OFFSHORE
14 CLOUD WOULD NOT ENTER INTO, WE BELIEVE, ANY OF THE
15 POTENTIAL TO OPERATE UNDER THE PROVISIONS OF THE
16 STATUTE, IF IT WERE EVER TO BE ENACTED. SO THERE
17 WOULDN'T EVER BE A PROBLEM OF OFFSHORE COMPANIES.
18 YOU HAVE TO BE A DOMESTIC INSURANCE COMPANY, AND
19 YOU HAVE TO BE APPROVED PURSUANT TO SUBTITLE D.

20 CHAIRMAN FRAZEE: HOWEVER, IF WE TOOK THE
21 OTHER APPROACH AND AMENDED OUR REGULATIONS, THEN
22 THAT COULD LEAVE THE DOOR OPEN.

23 MR. WHITE: COULD. UNLESS YOU PUT A
24 SIMILAR PROVISION IN YOUR REGULATIONS, OR THE
25 STATUTE WENT AHEAD. AND YOU COULD ALSO ADOPT

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1 REGULATIONS -- THE STATUTE DOESN'T PROHIBIT YOU
2 FROM ADOPTING REGULATIONS, OR EVEN MORE LIMITING
3 REGULATIONS. NOT THAT I WOULD ENCOURAGE YOU
4 NECESSARILY TO DO SO. BUT IT BASICALLY SAYS YOU
5 MAY APPROVE A CAPTIVE INSURANCE COMPANY PROVIDING
6 THIS THING IF IT MEETS THESE SEVERAL THINGS. IT
7 DOESN'T SAY THAT'S NECESSARILY THE ONLY CRITERIA
8 THE BOARD WOULD HAVE TO USE TO DETERMINE THE
9 ACCEPTABILITY.

10 YOU STILL HAVE THE DISCRETION TO REVIEW AND
11 APPROVE OR DENY UNDER THE PROVISION THAT WE'VE
12 GIVEN YOU HERE. WE THINK THAT WHEN YOU LOOK AT
13 COMPLIANCE OF SUBTITLE D, AND IT'S DOMESTICALLY
14 DOMICILED, IT'S AN AM BEST RATED, IT'S GOT AN
15 ANNUAL AUDIT. YOU'LL BE SATISFIED THAT IT'S A
16 SECURE AND A SAFE AND EFFECTIVE MECHANISM.

17 MR. CHANDLER: WE'RE REALLY BACK TO WHERE
18 WE WERE IN '91, WHICH IS WE WERE BEGINNING TO GO
19 DOWN THAT PATH. WE STARTED LAYING OUT A NUMBER OF
20 CRITERIA THAT WE ALL FELT WAS APPROPRIATE CRITERIA
21 THAT WE PUT IN OUR REGULATIONS. AND WE JUST KIND
22 OF CAME TO IT AND SAID STOP. WHY ARE WE PRETENDING
23 TO BE THE INSURANCE EXPERTS WILL ALL THIS CRITERIA?

24 LET'S JUST SHIP THIS OVER TO THE DEPARTMENT
25 OF INSURANCE AND HAVE IT GO THROUGH THEIR PROCESS.

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1 NOW THAT WE UNDERSTAND THAT IS A DEAD END, OR AT
2 LEAST AT THIS PARTICULAR COMPANY, WE COULD GO BACK
3 AND START AGAIN LAYING OUT ALL THE KINDS OF
4 CRITERIA THAT WE THINK WOULD BE APPROPRIATE IN A
5 PUBLIC SETTING FOR ALL PARTIES TO PARTICIPATE IN.
6 THE KIND OF REQUIREMENTS THAT OUR REGULATION SHOULD
7 FOLLOW, INCLUDING WHAT THE FISCAL IMPLICATIONS
8 WOULD BE TO HAVE THAT PROPERLY CARRIED OUT.

9 CHAIRMAN FRAZEE: IN THE MEANTIME, WE HAVE
10 THE QUESTION OF THIS EXPIRING. AND MY INCLINATION
11 WOULD BE TO GRANT AN ADDITIONAL SIX-MONTH GRACE
12 PERIOD, WITH THE PROVISIO THAT ANY NEW PERMITS WOULD
13 BE TAKEN CARE OF IN THE SAME MANNER THAT KETTLEMAN
14 HILLS WAS. WHAT WAS THE MECHANISM THAT WAS USED
15 THERE? SURETY BOND ON ANY NEW PERMITS, SO THAT WE
16 WOULD NOT BE INCREASING EXPOSURE.

17 MEMBER JONES: WHEN YOU'RE SAYING NEW, YOU
18 SAYING NEW, REVISED, MODIFIED?

19 CHAIRMAN FRAZEE: ONES THAT WOULD REQUIRE
20 ADDITIONAL FINANCIAL ASSURANCES.

21 MEMBER JONES: YEAH. I CAN SUPPORT THAT.
22 WHAT I'D LIKE TO DO, THOUGH, IS AT THE BOARD
23 MEETING, HAVE THE DISCUSSION, YOU KNOW, WITH SOME
24 OF THE ISSUES THAT WE TALKED ABOUT DOLLAR-WISE,
25 THOSE TYPES OF THINGS. AND THEN OBVIOUSLY, WE'RE

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1 GOING TO HAVE TO KEEP WORKING ON THIS THING.

2 CHAIRMAN FRAZEE: YES.

3 MEMBER JONES: COULD WE ADD A THREE-MONTH
4 REVIEW, OR KEEP IT AT QUARTERLY, OR HOWEVER WE WANT
5 TO DO THAT IF AT ANY TIME IF WE'RE NOT MOVING DOWN
6 THE PATH, IT CAN BE STOPPED?

7 MR. ADAMS: NOT KNOWING THE EXACT
8 LEGISLATIVE PROCESS, BUT I THINK THE GOVERNOR HAS
9 TO SIGN THINGS AROUND, WHAT, OCTOBER? WE WOULD
10 KNOW THE FATE OF THE LEGISLATION PRIOR TO THE
11 SIX-MONTH TIME LIMIT THAT YOU'RE TALKING ABOUT.
12 MAYBE SOMETHING LIKE SUCCESS OF THE BILL, OR
13 FAILURE OF THE BILL, OR TIE IT SOMEHOW -- WE CAN
14 FIGURE OUT SOME LANGUAGE THAT WOULD --

15 CHAIRMAN FRAZEE: THE EFFECTIVE DATE OF THE
16 BILL IS WHAT WOULD CONTROL IT. THAT WOULDN'T BE
17 UNTIL JANUARY 1ST. EVEN THOUGH WE WOULD KNOW, AND
18 PERHAPS COULD EVEN PROCEED WITH SOME ADJUSTMENTS IN
19 OUR REGULATIONS TO COMPLY IN THE INTERIM. BUT THE
20 EXTENSION WOULD HAVE TO LAST UNTIL THE EFFECTIVE
21 DATE OF THE BILL.

22 MR. CHANDLER: AND PERHAPS IN THIS INTERIM
23 PERIOD, STAFF, YOU COULD START -- BECAUSE IF THE
24 BILL GOES, WE'RE GOING TO NEED TO MODIFY OUR
25 REGULATIONS. AND AS MR. WHITE POINTED OUT, THAT

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1 DOESN'T PRECLUDE US FROM ADDING OUR OWN ADDITIONAL
2 SETS OF CRITERIA.

3 AND IF IT DOESN'T GO, WE'LL PROBABLY BE
4 BACK HERE AGAIN DISCUSSING DO WE NEED TO MODIFY OUR
5 REGULATIONS WITH OUR OWN COMFORT SET OF CRITERIA OR
6 REQUIREMENTS.

7 SO MAYBE IN THIS INTERIM PERIOD, RICHARD
8 AND GARTH, YOU CAN GO BACK AND CRACK THE FILES OPEN
9 ON WHAT YOU DID BACK IN '91, AND HOW FAR WE WERE
10 WITH SPECIFIC REQUIREMENTS, AND START TO BRING
11 THOSE FORWARD TO THE BOARD FOR JUST SOME INFORMAL
12 DISCUSSIONS SO EVERYONE'S GETTING A FEEL FOR WHAT
13 IT IS WE MAY BE LOOKING AT IN THE REGULATORY ARENA.

14 CHAIRMAN FRAZEE: OKAY. I FEEL WE SHOULD
15 NOT TAKE ANY ACTION TO THAT RECOMMENDATION. IS
16 THAT --

17 MEMBER JONES: I WAS WILLING TO SUPPORT
18 THAT.

19 CHAIRMAN FRAZEE: WOULD SUPPORT THE MOTION
20 TO --

21 MEMBER JONES: THE EXTENSION.

22 CHAIRMAN FRAZEE: -- THE MOTION TO GRANT AN
23 EXTENSION OF SIX MONTHS, WHICH WOULD BE JANUARY
24 27TH, UNDER THE SAME CONDITIONS THAT THE CURRENT
25 EXTENSION UTILIZES, AND THAT'S A QUARTERLY

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1 REPORT.

2 MR. WHITE: TWO MONTHS.

3 CHAIRMAN FRAZEE: SIXTY-DAY REPORT.

4 MEMBER JONES: AND I SECOND THAT, WITH ALL
5 OF YOUR OTHER CONDITIONS YOU PUT IN EARLIER.

6 CHAIRMAN FRAZEE: PERHAPS WE OUGHT TO STATE
7 IN THOSE OTHER CONDITIONS THAT ANY NEW APPLICATION
8 THAT WOULD REQUIRE ADDITIONAL FINANCIAL ASSURANCES
9 WOULD BE SUBJECT TO A SURETY BOND AND NOT UTILIZE
10 NGIC OR OTHER MECHANISMS ACCEPTABLE TO THE BOARD.

11 OKAY. WE HAVE A MOTION AND A SECOND. THE
12 SECRETARY WILL CALL THE ROLL.

13 THE SECRETARY: BOARD MEMBER JONES.

14 MEMBER JONES: AYE.

15 THE SECRETARY: CHAIRMAN FRAZEE.

16 CHAIRMAN FRAZEE: AYE. AND THIS WILL BE
17 FORWARDED TO THE BOARD. BUT THERE WILL BE MORE
18 DISCUSSION OTHER THAN JUST THE EXTENSION AT THAT
19 TIME. SO I WOULD EXPECT THAT STAFF WILL BE THERE
20 PREPARED TO CONTINUE THE DISCUSSION. OKAY.

21 WE ARE READY FOR AGENDA ITEM SIX. THIS IS
22 THE CONSIDERATION OF ADOPTION OF FINANCIAL
23 ASSURANCE REGULATIONS FOR SOLID WASTE LANDFILLS OF
24 LOCAL GOVERNMENT FINANCIAL TEST AND LOCAL
25 GOVERNMENT GUARANTEE.

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1 MR. DIER: MR. CHAIRMAN, NANCY JESTREBY OF
2 THE FINANCIAL ASSURANCES STAFF WILL MAKE THIS
3 PRESENTATION.

4 MS. JESTREBY: GOOD MORNING CHAIRMAN FRAZEE
5 AND BOARDMEMBER JONES.

6 MY NAME IS NANCY JESTREBY WITH THE
7 FINANCIAL ASSURANCES SECTION. THIS ITEM IS TO
8 SECURE APPROVAL OF THE PROPOSED REGULATIONS LOCAL
9 GOVERNMENT FINANCIAL TEST AND LOCAL GOVERNMENT
10 GUARANTEE, TWO NEW FINANCIAL ASSURANCE MECHANISMS
11 FOR LOCAL GOVERNMENT OPERATORS OF SOLID WASTE
12 LANDFILLS.

13 ON JANUARY 28TH, 1998, THE BOARD ADOPTED
14 THE PROPOSED REGULATIONS AS RECOMMENDED BY STAFF.
15 TODAY'S ITEM INCLUDES MINOR CHANGES TO THE PROPOSED
16 REGULATIONS, AND PROVIDES A PUBLIC HEARING AFTER
17 THE CONCLUSION OF THE 15-DAY COMMENT PERIOD FOR
18 THESE CHANGES.

19 STAFF DETERMINED THE LOCAL GOVERNMENT
20 FINANCIAL TEST AND LOCAL GOVERNMENT GUARANTEE HAVE
21 NO ENVIRONMENTAL IMPACT, AND THIS PROJECT IS EXEMPT
22 FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT.

23 THE PROPOSED REGULATIONS WERE NOTICED ON
24 NOVEMBER 21, 1997, AND THE 45-DAY COMMENT PERIOD
25 CLOSED ON JANUARY 5TH, 1998. THE PROPOSED

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1 REGULATIONS WITH MINOR CHANGES WERE RENOTICED FOR A
2 15-DAY COMMENT PERIOD THAT ENDED ON JULY 7TH,
3 1998.

4 THE LOCAL GOVERNMENT FINANCIAL TEST AND
5 LOCAL GOVERNMENT GUARANTEE MECHANISMS WERE
6 DEVELOPED BY THE U.S. EPA. STAFF PROPOSES TO ADD
7 THESE MECHANISMS TO EXISTING REGULATIONS AS
8 REQUIRED BY PUBLIC RESOURCES CODE 43601. THIS
9 SECTION WAS MODIFIED IN 1992 BY SENATE BILL 610 TO
10 REQUIRE THE BOARD TO ALLOW LANDFILL OPERATORS TO
11 PROVIDE FINANCIAL ASSURANCE BY USING A MECHANISM IN
12 BOARD REGULATIONS OR FEDERAL REGULATIONS AS WRITTEN
13 OR WITH CONDITIONS IMPOSED BY THE BOARD.

14 THE LOCAL GOVERNMENT FINANCIAL TEST ALLOWS
15 LOCAL GOVERNMENTS TO MEET FINANCIAL ASSURANCE
16 OBLIGATIONS FOR POSTCLOSURE MAINTENANCE AND
17 CORRECTIVE ACTION COSTS BY DEMONSTRATING THEIR
18 FINANCIAL STRENGTH.

19 A 15-DAY NOTICE WAS NEEDED TO MAKE A MINOR
20 CHANGE TO SIMPLY BRING THE REQUIREMENTS FOR THE
21 SPECIAL CERTIFIED PUBLIC ACCOUNTANT LETTER UP TO
22 DATE. THE U.S. EPA DETERMINED THE FORMER CPA
23 REPORT REQUIREMENTS HAD BECOME INCONSISTENT WITH
24 CURRENT PROFESSIONAL AUDITING STANDARDS. THE
25 REGULATIONS WERE MODIFIED TO SPECIFY THE NEW CPA

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1 REPORT REQUIREMENTS. A FEW NONSUBSTANTIVE
2 CLARIFYING CHANGES WERE ALSO MADE. NO COMMENTS
3 WERE RECEIVED DURING THE 15-DAY NOTICE PERIOD THAT
4 ENDED ON JULY 7TH, 1998.

5 STAFF RECOMMENDS APPROVAL OF THE PROPOSED
6 LOCAL GOVERNMENT FINANCIAL TEST AND LOCAL
7 GOVERNMENT GUARANTEE REGULATIONS AND REQUESTS THIS
8 ITEM IS FORWARDED TO THE BOARD FOR ADOPTION.

9 FOR YOUR INFORMATION, DURING JULY, 1998,
10 STAFF OF THE FINANCIAL ASSURANCES SECTION APPROVED
11 THE FIRST LOCAL GOVERNMENT FINANCIAL TEST FOR THE
12 POSTCLOSURE MAINTENANCE COSTS OF A COUNTY
13 LANDFILL.

14 I AM READY TO ANSWER ANY QUESTIONS YOU MAY
15 HAVE.

16 CHAIRMAN FRAZEE: THIS DOES DEAL ONLY WITH
17 POSTCLOSURE AND MODIFICATION, IT DOES NOT APPLY TO
18 CLOSURE FUNDS THEMSELVES?

19 MS. JESTREBY: THAT'S CORRECT. LOCAL
20 GOVERNMENTS ALREADY HAVE MECHANISMS THAT THEY'VE
21 BEEN SUCCESSFULLY USING FOR THE CLOSURE COSTS.

22 CHAIRMAN FRAZEE: AND ARE OPERATIONS
23 GRANDFATHERED IN BY THIS REVISION?

24 MS. JESTREBY: I'M NOT SURE --

25 CHAIRMAN FRAZEE: LACKING THIS, WAS THERE

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1 NOT A REQUIREMENT OR PRIOR TO THE ENACTMENT OF
2 THIS, A REQUIREMENT THAT POSTCLOSURE FUNDS BE CASH
3 DEPOSITS ALSO?

4 MS. JESTREBY: LOCAL OPERATORS HAD THE
5 ABILITY TO MAKE DEPOSITS FOR POSTCLOSURE
6 MAINTENANCE COSTS, OR TO USE ANOTHER MECHANISM
7 AVAILABLE FOR LOCAL GOVERNMENTS, A PLEDGE OF
8 REVENUE AGREEMENT. AND MANY LOCAL GOVERNMENT
9 OPERATORS DO USE THAT. WE DON'T ANTICIPATE A LOT
10 OF ACTIVITY ON THIS MECHANISM, BUT WE REALLY DON'T
11 KNOW UNTIL TIME PASSES.

12 CHAIRMAN FRAZEE: SO THIS WOULD JUST GIVE
13 THEM ANOTHER ALTERNATIVE OF FINANCIAL TEST VERSUS
14 THE PLEDGE OF REVENUE?

15 MS. JESTREBY: THAT'S CORRECT.

16 CHAIRMAN FRAZEE: I'M THINKING ABOUT, WELL,
17 SPECIFICALLY THE SAN MARCOS LANDFILL WHERE MY
18 UNDERSTANDING THAT POSTCLOSURE WAS IN THE FORM OF
19 CASH DEPOSITS THERE. DOES ANYONE RECALL THAT?

20 DOES THIS GIVE AN OPPORTUNITY FOR THEM TO
21 GO BACK AND RECOVER THAT CASH AND USE THE -- AND
22 THAT MAY HAVE BEEN JUST A MISASSUMPTION ON MY PART
23 THAT THE CASH ONLY DEALT WITH CLOSURE AND NOT WITH
24 THE POSTCLOSURE. MAYBE THEY WERE UTILIZING THE
25 PLEDGE OF REVENUE FOR POSTCLOSURE.

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1 MR. ADAMS: I'M TRYING TO THINK OF IT AS TO
2 EXACTLY WHICH MECHANISMS THEY USED. BEING A PUBLIC
3 OPERATOR, I WOULD HAVE THOUGHT THEY PROBABLY WOULD
4 HAVE USED A PLEDGE OF REVENUE AT THE TIME, BECAUSE
5 THAT'S THE MAJORITY OF THE PUBLIC OPERATORS USED
6 THAT.

7 THIS TEST WAS SPECIFICALLY DESIGNED FOR
8 PUBLIC ENTITIES TO HAVE TO SHOW THEIR STRENGTH OR
9 LACK OF. AND THIS IS NOT AN EASY TEST TO COMPLY
10 WITH, BECAUSE THEY HAVE TO HAVE AUDITS, WHICH COST
11 THEM MONEY FOR AN INDEPENDENT AUDIT. THEY STILL
12 HAVE TO SHOW IN THE TEST THAT THEY'RE SAVING MONEY
13 SOMEWHERE ELSE IN A POT OUTSIDE OF OUR FINANCIAL
14 ASSURANCE MECHANISMS. SO WE DON'T ANTICIPATE A BIG
15 FLOOD OF FOLKS DOING IT.

16 FOR SAN MARCOS, IF THEY OPTED TO SWITCH, IF
17 THEY HAD THE CASH ON HAND AND COULD PASS THE TEST,
18 THEY COULD DO IT. BUT YOU'D HAVE TO PASS THE TEST
19 EVERY YEAR. AND IN ANY ONE YEAR IF YOU FAILED THE
20 TEST, THEN YOU'D HAVE TO REPLACE IT WITH AN
21 ALTERNATIVE AND MAKE UP WHAT YOU'VE DONE. SO IT'S
22 NOT -- LIKE I SAY, WE DON'T EXPECT A LOT OF PEOPLE
23 TO JUMP ON IT.

24 I BELIEVE DIANA THOMAS HAS ONE SITE, A
25 PUBLIC SITE THAT HAS SUBMITTED THE TEST, BECAUSE

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1 THEY DON'T HAVE THE ABILITY TO PLEDGE REVENUE FROM
2 ANYTHING ELSE, SO THEY ARE SEEKING TO PASS THIS
3 PARTICULAR TEST FOR POSTCLOSURE. SO WE'RE AWARE OF
4 ONE SO FAR THAT'S INTERESTED.

5 CHAIRMAN FRAZEE: OKAY. AND IN THE CASE OF
6 FACILITIES THAT MAY NOT BE COUNTY OWNED, BUT ARE A
7 DISTRICT OR A JOINT POWERS AGENCY, THEY WOULD NOT
8 HAVE THE ABILITY TO CAPTURE THE STREAM OF REVENUE
9 FROM THE COUNTY, THEY WOULD BE STRICTLY ON THEIR
10 OWN, THAT AGENCY'S OWN ASSETS?

11 MR. ADAMS: YEAH. THEY WOULD BE LOOKING AT
12 JPA, OR SOMETHING OF THAT NATURE. THEY'D BE
13 LOOKING AT THE REVENUE STREAMS FROM THEIR SYSTEM OR
14 HAVE AUTHORITY OVER, AND EITHER COLLECTING REVENUES
15 SOMETIMES --

16 CHAIRMAN FRAZEE: BUT THEY COULDN'T EXTEND
17 BACK TO THE DEPARTMENT OR AGENCIES OR THE JOINT
18 POWERS?

19 MR. ADAMS: I DON'T THINK SO, NO.

20 MEMBER JONES: MR. CHAIRMAN, I'LL MAKE A
21 MOTION. BUT I THINK THE RESOLUTION IS NUMBERED
22 INCORRECTLY. SHOULDN'T IT BE 98-253?

23 MR. FRAZEE: Yes.

24 MR. JONES: SO WITH THAT, I'LL MOVE
25 RESOLUTION 97-253, THAT SHOULD BE RENUMBERED

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1 98-253, FOR THE CONSIDERATION OF ADOPTION OF
2 FINANCIAL ASSURANCE REGULATION FOR SOLID WASTE
3 LANDFILLS, LOCAL GOVERNMENT FINANCIAL TEST, AND
4 LOCAL GOVERNMENT GUARANTEE.

5 CHAIRMAN FRAZEE: WE HAVE A MOTION. AND I
6 WOULD SECOND ON THE ADOPTION OF THE RESOLUTION.
7 WE'LL CALL IT 98-253. THE SECRETARY WILL CALL THE
8 ROLL ON THAT ONE.

9 THE SECRETARY: BOARD MEMBER JONES.

10 MEMBER JONES: AYE.

11 THE SECRETARY: CHAIRMAN FRAZEE.

12 CHAIRMAN FRAZEE: AYE. THE MOTION IS
13 CARRIED AND IF THERE'S NO OBJECTION, WE'LL
14 RECOMMEND CONSENT --

15 MEMBER JONES: YEAH. THAT'S FINE.

16 CHAIRMAN FRAZEE: -- OF THE BOARD ON THAT
17 ONE.

18 MEMBER JONES: MR. CHAIRMAN, I DON'T KNOW
19 IF GARTH OR RICHARD HAVE ANY MORE ITEMS. AND WITH
20 YOUR INDULGENCE, BEFORE WE GET ON THE NEXT ONE, I
21 DON'T KNOW HOW YOU WANT TO DEAL WITH THIS. BUT
22 MAYBE FOR THE NEXT BOARD MEETING OR WHATEVER, I'D
23 LIKE TO GET AN UPDATE ON OXFORD. DID THEY SUBMIT A
24 PLAN ON CLOSURE, POSTCLOSURE? AND HAVE THEY MADE
25 THE PREMIUM PAYMENT ON THE INSURANCE? AND IF NOT,

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1 I -- EITHER WAY, THE STATUS IS FINE. BUT I THINK
2 WE NEED TO GET AN UPDATE AND DEAL WITH THIS IF WE
3 HAVE TO AT THE BOARD MEETING.

4 CHAIRMAN FRAZEE: WE HAVE A BOARD ITEM?

5 MEMBER JONES: I DIDN'T SEE IT.

6 MR. ADAMS: I WAS GOING TO SAY, WE HAVE AN
7 ITEM, BUT IT'S DIRECTED TO THE BOARD THIS MONTH ON
8 THAT ISSUE.

9 MEMBER JONES: I DIDN'T SEE IT. SORRY. I
10 DIDN'T SEE MY BOARD AGENDA YET.

11 CHAIRMAN FRAZEE: OKAY. THEN WE'RE READY
12 TO PROCEED WITH ITEM SEVEN. THIS IS THE
13 CONSIDERATION OF ALLOCATION OF FISCAL YEAR '98
14 AND '99, FUNDS FOR THE SOLID WASTE DISPOSAL AND
15 CODISPOSAL SITE CLEANUP PROGRAM.

16 MR. DIER: AND MARGE ROUCH WILL BE MAKING
17 THIS PRESENTATION.

18 MS. ROUCH: GOOD MORNING CHAIRMAN FRAZEE
19 AND BOARDMEMBER JONES. TODAY THE SOLID WASTE
20 CLEANUP PROGRAM IS REQUESTING APPROVAL OF
21 ALLOCATING FISCAL YEAR 1998-99 FUNDS. WE ARE
22 ASKING FOR 1.2 MILLION DOLLARS TO BE SET ASIDE FOR
23 GRANTS AND LOANS, AND ADDITIONALLY, WE ARE ASKING
24 FOR 3.5 MILLION DOLLARS FOR BOARD MANAGED
25 CONTRACTS.

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1 WE PROPOSE TO PLACE 540 THOUSAND DOLLARS
2 INTO GUINN'S EXISTING CONTRACT. THIS WILL MAX OUT
3 THE GUINN CONTRACT WITH A 30-PERCENT INCREASE OVER
4 THE ORIGINAL CONTRACT AMOUNT.

5 WE ARE REQUESTING 1,134,178 THOUSAND
6 DOLLARS INTO SUKUT'S NEW CONTRACT, THE CONTRACT
7 THAT WE JUST AWARDED THEM. THIS WILL BRING THE
8 CONTRACT DOLLAR AMOUNT TO THE TOTAL CONTRACT AMOUNT
9 OF 2.5 MILLION, WHICH IS NOT AN -- WHICH DOES NOT
10 INCLUDE A 30-PERCENT INCREASE OVER THE CONTRACT
11 AMOUNT.

12 THESE ALLOCATIONS ALL HINGE ON THE STATE'S
13 BUDGET BEING SIGNED. SO APPROVAL WOULD NOT MEAN
14 WE'D BE USING THIS MONEY UNTIL THAT HAPPENS.

15 WE ARE ALSO ASKING PERMISSION TO GO OUT TO
16 BID FOR ANOTHER CONSTRUCTION CONTRACT, PLACING 1
17 MILLION DOLLARS AT THIS TIME INTO THAT CONTRACT,
18 AND A NEW ENGINEERING SERVICES CONSULTANT CONTRACT,
19 PLACING 825,822 DOLLARS AT THIS TIME. THAT COMES
20 OUT OF THE 3.5 MILLION DOLLAR CONTRACT
21 ALLOCATION.

22 WE HAVE PROVIDED A LIST OF POTENTIAL SITES
23 ON THIS ITEM. AS AN UPDATE TO THIS SITE LIST, THE
24 GRASS VALLEY BURN DUMP, WHICH IS THE THIRD -- THIRD
25 SITE ON THE LIST, IS NOT A POTENTIAL SITE AT THIS

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1 TIME. THIS WEEK THE LEA HAS INFORMED THE OWNER'S
2 ATTORNEY, OWNER OF THE SITES ATTORNEY, REGARDING
3 THE DECISION THAT IT IS NOT A 2136 CANDIDATE.

4 IN THE LAST SIX MONTHS, STAFF HAS MADE AN
5 EXTRA EFFORT TO WORK WITH THE LEAS LOOKING AT SITES
6 IN ELEVEN COUNTIES. IN THIS PROCESS, WE SHOULD BE
7 ABLE TO MAKE THE 2136 SITE LIST MORE ACCURATE AND
8 HAVE MORE SITES INVESTIGATED LOOKING FOR POTENTIAL
9 SITES FOR THE PROGRAM.

10 WE HAVE FINALLY STARTED OUR SUMMER
11 CONSTRUCTION WORK WITH THE WEST 6TH STREET ILLEGAL
12 DISPOSAL SITE CLEANUP IN RIO LINDA. IF ALL GOES AS
13 PLANNED, WE WILL BE STARTING AT LEAST ONE NEW
14 CONSTRUCTION PROJECT EVERY WEEK FOR THE NEXT SEVEN
15 WEEKS.

16 IF YOU HAVE ANY QUESTIONS, I WILL BE HAPPY
17 TO ANSWER THEM. I DO WANT TO MENTION THAT THE
18 RESOLUTION NUMBER IS BLANK ON THIS ITEM, AND THE
19 RESOLUTION NUMBER IS 98-254, AND STAFF RECOMMENDS
20 APPROVAL OF RESOLUTION NUMBER 98-254.

21 CHAIRMAN FRAZEE: OKAY. THANK YOU.
22 QUESTIONS?

23 MEMBER JONES: I DON'T HAVE ANY PROBLEM
24 WITH THIS. IF THE TIRE FUND LEGISLATION DOESN'T GO
25 THROUGH, DO TIRE CLEANUPS COME UNDER SITE

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1 REMEDIATION AS A POTENTIAL SOURCE FOR FUNDS?

2 MR. WALKER: SCOTT WALKER, REMEDIATION
3 CLOSURE AND TECHNICAL SERVICES BRANCH.

4 THE 2136 PROGRAM DOES NOT COVER THE TIRE
5 SITES. THEY ARE ADDRESSED THROUGH THE WASTE TIRE
6 STABILIZATION AND ABATEMENT PROGRAM AT THIS TIME.
7 THERE MAY BE TIRES WITHIN A SITE UNDER THE 2136
8 PROGRAM THAT IS ADDRESSED. BUT AT THIS TIME, THOSE
9 SITES ARE NOT ADDRESSED UNDER 2136.

10 MEMBER JONES: BUT IS THERE ANY STATUTORY
11 OR REGULATORY REASON THAT THEY COULD NOT BE
12 INCLUDED, IF -- WHAT I'M LOOKING AT IS IF WE DO NOT
13 GET LEGISLATION THAT CONTINUES THE TIRE PROGRAM, IS
14 THIS A SOURCE OF REMEDIATION?

15 MR. WALKER: WE'RE GOING TO HAVE TO FOLLOW
16 THAT UP FOR YOU AND DO SOME MORE WORK ON THAT.
17 BECAUSE WE DO UNDERSTAND THAT THE TIRE FUND
18 CONTINUANCE IS AN ONGOING ISSUE RIGHT NOW, AND THAT
19 WE DO NEED TO GO BACK, AND WE NEED TO ANALYZE
20 THAT. AND COME BACK WITH MORE INFORMATION TO
21 DETERMINE THAT.

22 MR. CHANDLER: I THINK THAT'S A GOOD
23 SUGGESTION. BECAUSE IT'S MY RECOLLECTION AND
24 UNDERSTANDING THAT IF THERE WASN'T ANY TIRE FUNDS
25 AVAILABLE, THAT ANY ORPHAN SITE THAT INVOLVED TIRES

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1 WOULD NOT BE PRECLUDED FROM HAVING THE TIP FEE FUND
2 FOR CLEANUP UNDER 2136.

3 SO LET'S HAVE A LITTLE BIT MORE TIME TO SEE
4 IF THERE'S A SPECIFIC STATUTORY OR REGULATORY
5 EXCLUSION OF LOOKING AT A TIRE SITE UNDER THE 2136
6 PROGRAM. BUT I'M NOT AWARE OF IT. SCOTT MIGHT
7 BE. SO LET'S SPEND A LITTLE MORE TIME. WE'LL GET
8 THAT ANSWER FOR YOU AT THE BOARD MEETING. I KNOW
9 I'VE BEEN SAYING THAT THE INDUSTRY, IF WE DON'T
10 HAVE THIS FEE EXTENDED, YOUR TIP FEE WILL BE GOING
11 TOWARDS CLEANING UP TIRE SITES.

12 MEMBER JONES: WELL, IT WASN'T A QUESTION I
13 ASKED IN MY BRIEFING, BECAUSE I DIDN'T THINK ABOUT
14 IT UNTIL DRIVING UP FROM LA.

15 CHAIRMAN FRAZEE: THE OTHER PHASE OF THAT
16 IS THE, IS IT 1530 PROGRAM?

17 MEMBER JONES: 1330. YEAH.

18 CHAIRMAN FRAZEE: 1330. THAT WAS PRIMARILY
19 DIRECTED TOWARDS TIRES. AND --

20 MR. CHANDLER: I THINK SOME OF THE FARM
21 BUREAU REPRESENTATIVES INDICATED THAT A LOT OF THE
22 PROBLEMS THEY HAVE IS WITH MIDNIGHT DUMPING ON FARM
23 PROPERTY, AND OFTENTIMES WITH THAT THEY WOULD SEE A
24 PREPONDERANCE OF TIRES, BUT IT ALSO INCLUDED A LOT
25 OF OTHER PROBLEM MATERIAL THEY WERE SEEING.

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1 SO I DON'T THINK IT'S NECESSARILY TARGETED
2 AT TIRES OR A SPECIFIC PROGRAM FOR TIRES. THEY
3 EXPRESSED THAT BEING A PROBLEM MATERIAL THAT THEY
4 OFTEN HAVE TO ENCOUNTER. I THINK IT'S OPEN. IN
5 OTHER WORDS, 1330 ALLOWS FOR THAT.

6 CHAIRMAN FRAZEE: OKAY.

7 MEMBER JONES: MR. CHAIRMAN, I'LL MOVE
8 RESOLUTION 98-254, INCLUDING THE RECOMMENDATIONS
9 FOR FUNDING.

10 CHAIRMAN FRAZEE: OKAY. WE HAVE A MOTION.
11 I WILL SECOND ON RESOLUTION 98-254. IF THERE'S NO
12 OBJECTION, WE'LL SUBSTITUTE ROLL CALL AND MOVE THIS
13 TO THE CONSENT CALENDAR FOR THE BOARD.

14 OKAY. NOW, AGENDA ITEM EIGHT IS THE
15 CONSIDERATION OF LEGAL AUTHORITY ISSUES AND STAFF
16 OPTIONS RELATING TO BIOSOLID TIER REGULATIONS.

17 MR. BLOCK: GOOD MORNING COMMITTEE CHAIR
18 AND COMMITTEE MEMBER JONES. I'M ELLIOT BLOCK WITH
19 THE LEGAL OFFICE. AND THIS IS GOING TO TAKE ME
20 JUST A MINUTE TO PULL UP ON THE COMPUTER PART OF
21 THE PRESENTATION.

22 OKAY. ITEM NUMBER EIGHT, AS YOU MENTIONED,
23 WAS AN ITEM ABOUT LEGAL AUTHORITY ISSUES AND STAFF
24 OPTIONS ON REGULATIONS OF BIOSOLIDS.

25 BY WAY OF SOME BRIEF BACKGROUND, AND THIS

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1 IS ON PAGE 8-2 OF THE AGENDA ITEM, ON THE SCREEN IS
2 A LIST OF TIER REGULATIONS PACKAGES THAT WE HAVE
3 ADOPTED SO FAR, INCLUDING THE EFFECTIVE DATES OF
4 THOSE REGULATIONS.

5 AND THEN ON THE SCHEDULE TO COME, WE HAVE
6 FIVE OTHER PACKAGES LISTED, INCLUDING BIOSOLIDS,
7 WHICH IS THE SECOND FROM THE BOTTOM, WHICH IS
8 SCHEDULED FOR US TO START WORKING ON NOW, WITH AN
9 EFFECTIVE DATE PROJECTED AT BEING AUGUST, 1999.

10 JUST VERY QUICKLY TO GO OVER WHY WE'RE EVEN
11 LOOKING AT BIOSOLIDS, THE PUBLIC RESOURCES CODE
12 LISTS A NUMBER OF TYPES OF FACILITIES THAT ARE
13 WITHIN THE BOARD'S JURISDICTION. SOLID WASTE
14 TRANSFER PROCESSING STATION, COMPOSTING FACILITY,
15 TRANSFORMATION FACILITY, DISPOSAL FACILITY, AND WE
16 ALSO REGULATE SOLID WASTE HANDLING.

17 AND THE PUBLIC RESOURCES CODE DOES INCLUDE
18 IN THE DEFINITION OF SOLID WASTE DEWATERED,
19 TREATED, OR CHEMICALLY FIXED SEWAGE SLUDGE WHICH IS
20 NON-HAZARDOUS WASTE. BACK IN 1989 WHEN THIS
21 LEGISLATION WAS WRITTEN, AND OF COURSE THE PREVIOUS
22 VERSION OF THIS DEFINITION, SLUDGE WAS THE TERM
23 THAT WAS COMMONLY USED. BIOSOLIDS IS THE TERM THAT
24 WE COMMONLY USE TODAY. SO I'LL STAY WITH THE TERM
25 BIOSOLIDS FOR THE REST OF THE PRESENTATION.

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1 WE HAVE IDENTIFIED, IN LOOKING AT THIS
2 LEGAL AUTHORITY ITEM, AND GETTING READY FOR THE
3 PACKAGE TO START, WE IDENTIFIED SEVEN TYPES OF
4 BIOSOLIDS HANDLING, AS ARE LISTED UP ON THE
5 SCREEN. AND IN LOOKING AT THOSE SEVEN TYPES OF
6 HANDLING, WE HAVE DETERMINED THAT FIVE OF THOSE THE
7 BOARD ALREADY HAS REGULATIONS FOR. DISPOSAL,
8 TRANSFER PROCESSING, AND STORAGE, COMPOSTING AND
9 TRANSFORMATION.

10 AND THESE ARE PRIMARILY JUST THE GENERAL
11 PERMITTING REQUIREMENTS AND STATE MINIMUM
12 STANDARDS. WE DO HAVE IN TRANSFER PROCESSING AND
13 IN THE COMPOSTING REGULATIONS A COUPLE OF SPECIFIC
14 REGULATIONS THAT ARE SPECIFIC TO BIOSOLIDS.
15 TRANSFORMATION AND DISPOSAL. DISPOSAL NOW THAT
16 IT'S IN TITLE 27, WE DON'T HAVE ACTUAL SPECIFIC
17 REGULATIONS THAT ADDRESS SLUDGE, BUT DISPOSAL OF
18 SLUDGE AND TRANSFORMATION OF SLUDGE WOULD BE
19 COVERED UNDER THOSE EXISTING GENERAL STANDARDS FOR
20 HANDLING ANY OTHER TYPE OF WASTE.

21 TWO OF THOSE HANDLING METHODS THE BOARD
22 DOES NOT CURRENTLY HAVE REGULATIONS FOR. THAT IS
23 THE TREATMENT OF BIOSOLIDS AND AND THE BENEFICIAL
24 LAND APPLICATION OF BIOSOLIDS. IN THIS ITEM WE ARE
25 RECOMMENDING THAT THE BOARD NOT ADOPT ADDITIONAL

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1 REGULATIONS TO COVER THESE HANDLING METHODS.

2 THERE'S A COUPLE OF REASONS FOR THAT. THE
3 FIRST REASON HAS TO DO WITH JUST A STATUTORY
4 ANALYSIS THAT WE ARE LOOKING AT. IN THE CASE OF
5 TREATMENT, IT'S NOT SO MUCH A LEGAL AUTHORITY OR
6 JURISDICTION ANALYSIS, BUT MORE THE ANALYSIS THAT
7 WE'VE DONE WITH THE TIERS ON 1220 TO REDUCE
8 OVERLAP.

9 POTWs, WHICH IS THE MAIN WAY IN WHICH THE
10 TREATMENT OF BIOSOLIDS OCCURS, ARE EXTENSIVELY
11 COVERED BY REGULATIONS UNDER TITLE 23, AND STAFF
12 HAS NOT BEEN ABLE TO IDENTIFY ANY PORTION OF POTW
13 OPERATIONS THAT'S NOT COVERED SOMEHOW BY TITLE 23.

14 IN THE CASE OF BENEFICIAL LAND APPLICATION,
15 THE BOARD PREVIOUSLY, IN CONSIDERING THE ASH
16 REGULATIONS, HAS DETERMINED THAT LAND APPLICATION'S
17 WITHIN THE JURISDICTION OF THE DEPARTMENT OF FOOD
18 AND AGRICULTURE.

19 IN ADDITION TO THAT, THIS IS ALMOST AS AN
20 ASIDE, IF YOU WILL, AS YOU KNOW, LAST MONTH THE
21 BOARD APPROVED AN MOU WITH THE DEPARTMENT OF FOOD
22 AND AGRICULTURE, THE WATER BOARD, THE DEPARTMENT OF
23 TOXIC SUBSTANCES CONTROL TO START ESTABLISHING SOME
24 STANDARDS FOR LAND APPLICATION. AND THE STATE
25 WATER BOARD IS CURRENTLY IN THE PROCESS OF

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1 DEVELOPING GENERAL WDRs TO COVER LAND APPLICATION.

2 SO IN ADDITION TO THE STATUTORY
3 JURISDICTIONAL ISSUE THAT WE DEALT WITH IN THE ASH
4 REGULATIONS, WE ALSO HAVE THE FACT THAT THERE ARE
5 TWO AGENCIES THAT ARE ALSO ALREADY ESTABLISHING
6 STANDARDS TO COVER BENEFICIAL LAND APPLICATION.

7 THE SECOND REASON THAT WE'RE RECOMMENDING
8 NOT DOING ADDITIONAL REGULATIONS IS A MORE
9 PRACTICAL ONE, BASED ON A SURVEY THAT WE DID OF
10 INTERESTED PARTIES. MICHAEL WOCHNICK FROM THE
11 PERMITTING AND ENFORCEMENT DIVISION, WHO IS
12 UNFORTUNATELY NOT HERE TODAY, HE HAD A SCHEDULING
13 CONFLICT, SENT OUT A SURVEY TO OVER 700 INTERESTED
14 PARTIES REGARDING BIOSOLIDS. ON THE BOARD, I WON'T
15 READ THEM ALL, BUT THE SEVEN QUESTIONS THAT HE
16 POSED TO THE SURVEY RECIPIENTS. AS I MENTIONED,
17 OVER 700 WERE SENT. WE DID RECEIVE ABOUT 45
18 RESPONSES, WHICH DOESN'T SEEM LIKE A LOT. BUT THIS
19 IS THE NOTEBOOK WITH COPIES OF ALL THOSE
20 RESPONSES. IT'S FAIRLY HEFTY.

21 AND I WILL MENTION -- WELL, I WON'T MENTION
22 THEM BY NAME, BECAUSE I DIDN'T ACTUALLY WRITE DOWN
23 THEM. BUT WE DID NOTE THAT A COUPLE OF RESPONSES
24 WERE PARTICULARLY EXTENSIVE. AND I JUST WANTED TO
25 NOTE, BECAUSE WE'RE NOT GOING TO GO THROUGH THEM IN

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1 DETAIL HERE. APPRECIATE IT IF WE WERE, BECAUSE
2 THOSE FOLKS SPENT A LOT OF TIME ON THE ISSUE, GAVE
3 US A LOT OF INFORMATION, AND WE'RE GOING TO MAKE A
4 POINT OF FORWARDING THAT INFORMATION AS WELL ON TO
5 THE STATE WATER BOARD FOR WHATEVER USE THEY WOULD
6 LIKE.

7 OF THE 45 RESPONSES THAT WE RECEIVED, NINE
8 THOUGHT THAT THE BOARD SHOULD DEVELOP REGULATIONS
9 OF BIOSOLIDS. TWELVE OF THEM INDICATED THAT SOME
10 STATE AGENCY SHOULD DEVELOP REGULATIONS, ALTHOUGH
11 THEY WEREN'T NECESSARILY SURE THAT IT SHOULD BE THE
12 WASTE BOARD OR SOME OTHER AGENCY. AND TWENTY-FOUR
13 INDICATED THAT THERE WAS NO NEED FOR ADDITIONAL
14 REGULATIONS AT ALL. SOME OF THOSE RESPONSES WERE
15 STRONGER THAN OTHERS.

16 OF THE TWENTY-ONE SURVEY RESPONDENTS THAT
17 INDICATED THAT EITHER THE WASTE BOARD OR SOME OTHER
18 STATE AGENCY SHOULD DEVELOP REGULATIONS, IN LOOKING
19 AT THE RESPONSES, THE ISSUES THAT WERE OF CONCERN
20 TO THEM THAT PROMPTED THAT RESPONSE WERE REGARDING
21 LAND APPLICATION.

22 BASED ON LOOKING AT THE STATUTES AND
23 EXISTING REGULATIONS FROM OTHER AGENCIES, AND ALSO
24 THE FACT THAT, BASED ON OUR SURVEY, WE HAVEN'T
25 IDENTIFIED ANY PRACTICAL NEED FOR ADDITIONAL

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1 REGULATIONS OF THINGS THAT ARE WITHIN THE BOARD'S
2 JURISDICTION, STAFF IS RECOMMENDING THAT ADDITIONAL
3 REGULATION FOR BIOSOLIDS OPERATIONS AND FACILITIES
4 NOT BE DONE AT THE PRESENT TIME.

5 THE AGENDA ITEM DOES PROVIDE THREE OPTIONS,
6 AND THERE IS AN INTERMEDIATE OPTION IF FOR SOME
7 REASON THE BOARD FELT THAT WE SHOULD ACTUALLY SAY
8 THAT IN REGULATIONS, THAT WE'RE NOT GOING TO
9 REGULATE POTWs, THAT WE'RE NOT GOING TO REGULATE
10 LAND APPLICATION.

11 OUR RECOMMENDATION IS THAT WE NOT DO THAT
12 AT THIS TIME. WE HAVE NOT IDENTIFIED ANY REGULATED
13 PARTIES OR REGULATORS THAT ARE CONCERNED THAT
14 THERE'S CONFUSION ABOUT BOARD REGULATION OF THOSE
15 TYPES OF HANDLING. IN OTHER WORDS, THERE'S NOT A
16 DIRE NEED TO PUT THAT IN WRITING. NOBODY'S
17 BEING -- NOBODY IS POTENTIALLY SUBJECT TO
18 REGULATION IF WE DON'T PUT THOSE IN OUR
19 REGULATIONS.

20 AND WITH THAT, THAT'S MY WHOLE
21 PRESENTATION. I DON'T KNOW IF YOU HAVE ANY
22 QUESTIONS. TODD THOMPSON, I WILL SAY, FROM THE
23 STATE WATER BOARD IS IN THE AUDIENCE, IF YOU HAD
24 SOME QUESTIONS ABOUT THE GENERAL WDRs THAT THEY ARE
25 DEVELOPING.

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1 CHAIRMAN FRAZEE: THE ONE AREA THAT PERHAPS
2 BEARS A LITTLE LOOKING AT IS THE USE OF BIOSOLIDS
3 AS ADC. AND IS THAT ADEQUATELY COVERED?

4 MR. BLOCK: WE DO HAVE REGULATIONS THAT
5 COVER BIOSOLIDS USED AS ADC. THE ADC REGULATIONS
6 THAT ARE IN TITLE 27. THEY'RE SUBJECT TO STANDARDS
7 UNDER THOSE REGULATIONS, AND THERE'S PROVISIONS
8 THAT COVER THEM. BUT YOU HAVE CORRECTLY POINTED
9 OUT THAT I DID ACTUALLY FORGET, I SUPPOSE, AN
10 EIGHTH HANDLING METHOD. ADC COULD BE CONSIDERED
11 ANOTHER BULLET ON THE LIST. BUT THOSE ARE COVERED
12 BY REGULATIONS. AGAIN, NOBODY IN THE SURVEY,
13 RESPONDENTS, HAD INDICATED ANY ISSUES REGARDING
14 ADC. BIOSOLID USE OF ADC.

15 CHAIRMAN FRAZEE: LOOKS LIKE A PRETTY
16 THOROUGH ANALYSIS, AND IT SUITS ME TO AVOID ANOTHER
17 REGULATORY HEARING.

18 MEMBER JONES: UNLESS WE HAVE TO RESPOND TO
19 SOMETHING THAT'S CREATED THROUGH RSU, AT WHICH
20 POINT, I HAVE EVERY ASSURANCE FROM ELLIOT THAT WE
21 WILL JUMP ON IT.

22 MR. BLOCK: AND THAT WOULD BE AN RSU
23 RULE-MAKING PACKAGE.

24 MEMBER JONES: THAT'S RIGHT. BUT
25 CONSIDERING THAT THIS MAY BE THE WASTE TYPE THAT

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1 COULD BE THE MOST HEAVILY AFFECTED.

2 I'LL MAKE A MOTION THAT WE ADOPT RESOLUTION
3 98-255, CONSIDERATION OF LEGAL AUTHORITY ISSUES AND
4 STAFF OPTIONS RELATING TO BIOSOLID TIER
5 REGULATIONS.

6 CHAIRMAN FRAZEE: OKAY. WE HAVE A MOTION.
7 AND I WILL SECOND ON RESOLUTION 98-255. IF THERE'S
8 NO OBJECTION, WE'LL SUBSTITUTE ROLL CALL AND
9 RECOMMEND CONSENT ON THIS ITEM.

10 MEMBER JONES: YES, SIR.

11 CHAIRMAN FRAZEE: OKAY. NOW WE'RE READY
12 FOR ITEM NINE, WHICH IS THE CONSIDERATION OF
13 APPROVAL TO FORMALLY NOTICE PROPOSED REGULATION
14 PACKAGE FOR THE WITHDRAWAL OF LOCAL ENFORCEMENT
15 AGENCY DESIGNATIONS.

16 MR. DIER: STAFF COMING FORWARD AND MAKING
17 THIS PRESENTATION INCLUDE DIANE VLACH, SUE
18 HAPPERSBERGER, AND TOM UNSELL.

19 MS. VLACH: GOOD AFTERNOON CHAIRMAN FRAZEE
20 AND BOARDMEMBER JONES. MY NAME IS DIANE VLACH, AND
21 I'M WITH THE LEA SUPPORT SERVICES SECTION OF THE
22 PERMITTING ENFORCEMENT DIVISION.

23 I'M HERE TO PRESENT THE ITEM CONSIDERATION
24 OF APPROVAL TO FORMALLY NOTICE PROPOSED REGULATION
25 PACKAGE FOR WITHDRAWAL OF LEA DESIGNATION.

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1 THE PROPOSED REGULATION PACKAGE WILL
2 ESTABLISH A PROCESS AT BOTH THE STATE AND LOCAL
3 LEVEL FOR WITHDRAWING AN LEA'S DESIGNATION. THE
4 PROPOSED REGULATION PACKAGE WILL PROVIDE CLARITY TO
5 THIS PROCESS, AS REQUIRED BY THE PUBLIC RESOURCES
6 CODE SECTIONS 43200, 43206 AND 43215B, WHICH
7 MANDATES THAT THE BOARD SHALL ADOPT REGULATIONS
8 THAT ESTABLISH A PROCESS FOR NOTICE, PUBLIC
9 HEARING, ADMISSION OF EVIDENCE, AND FINAL ACTION
10 FOR WITHDRAWAL OF AN LEA'S DESIGNATION.

11 RECENTLY STAFF HAVE BEEN ASKED TO INCLUDE
12 LANGUAGE IN THE PROPOSED REGULATION PACKAGE THAT
13 DISCUSSES EQUAL ENFORCEMENT TREATMENT AS
14 APPROPRIATE AT PUBLICLY AND PRIVATELY OWNED SOLID
15 WASTE FACILITIES AND OPERATIONS. AT THIS TIME, THE
16 LEGAL OFFICE RECOMMENDS THAT THE BOARD NOT
17 DUPLICATE IN REGULATION PRC SECTION 43-300.5 PER
18 OAL GUIDELINES. LEGAL STAFF IS ON HAND TO DISCUSS
19 ANY QUESTIONS THAT YOU MAY HAVE ON THIS ISSUE.

20 ANOTHER QUESTION THAT HAS ARISEN IS, WHY
21 DOES EXISTING TITLE 14, SECTION 18056 STATE THAT A
22 NOTICE OF WITHDRAWAL SHALL BE GIVEN TO THE BOARD A
23 MINIMUM OF 90 DAYS IN ADVANCE OF THE EFFECTIVE DATE
24 OF THE WITHDRAWAL, WHEREAS PROPOSED ARTICLE 2.3,
25 SECTION 18085 STATES THAT WITHDRAWAL SHALL BECOME

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1 EFFECTIVE AND COMMENCE AT THE END OF THE CURRENT
2 FISCAL YEAR.

3 PROPOSED LANGUAGE FURTHER STATES THAT THE
4 NOTICE OF INTENT TO WITHDRAW DESIGNATION SHALL BE
5 PROVIDED IN WRITING TO THE BOARD AND EFFECTIVE LEA
6 AT LEAST 90 DAYS PRIOR TO THE END OF THE FISCAL
7 YEAR.

8 THE DIFFERENCE BETWEEN EXISTING AND
9 PROPOSED LANGUAGE IS THAT IN EXISTING TITLE 14,
10 SECTION 18056, THERE IS AN AGREEMENT BETWEEN THE
11 TWO PARTIES AT THE LOCAL LEVEL. IN THE PROPOSED
12 SECTION 18085, THERE'S A SITUATION WHERE THERE MAY
13 NOT BE AN AGREEMENT, AND THE EA DUTIES DEFAULT TO
14 THE BOARD. WHEN THIS HAPPENS, THE BOARD NEEDS
15 SUFFICIENT TIME TO ADEQUATELY ADDRESS ANY STAFFING
16 AND BUDGETARY ISSUES.

17 THEREFORE, PROPOSED REGULATIONS REQUIRE
18 THAT WITHDRAWAL OF AN LEA'S DESIGNATION SHALL ONLY
19 TAKE PLACE AT THE END OF THE FISCAL YEAR, AND THAT
20 THE BOARD RECEIVE NOTICE 90 DAYS AHEAD OF TIME TO
21 PLAN FOR ANY IMPACT TO CURRENT PROGRAMS.

22 THE PROPOSED REGULATION PACKAGE HAS BEEN
23 REVIEWED BY THE CCDEH, AND HAS BEEN DISCUSSED AT
24 LEA ROUND TABLES. STAFF WILL ATTEMPT TO ANSWER ANY
25 QUESTIONS YOU MAY HAVE. THIS CONCLUDES MY

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1 PRESENTATION.

2 MR. UNSELL: MR. CHAIRMAN AND MR. JONES,
3 JUST IN ADDITION, I WOULD LIKE TO MENTION THAT
4 STAFF ARE PREPARED TO ADDRESS THE TWO ITEMS
5 REGARDING THE ISSUE OF THE LANGUAGE OF REGULATION
6 PACKAGE DISCUSSING EQUAL ENFORCEMENT TREATMENT AS
7 APPROPRIATELY AS ALREADY CONTAINED IN STATUTORY
8 LANGUAGE.

9 AND ADDITIONALLY, I WANTED TO ADD THAT YES,
10 THIS HAS BEEN REVIEWED OVER THE LAST YEAR ON
11 NUMEROUS VERSIONS IN AN INFORMAL REVIEW WITH THE
12 LOCAL ENFORCEMENT AGENCIES AND CCDEH AND THE LOCAL
13 ENFORCEMENT AGENCY ROUND TABLE FORUMS, AND CONTAINS
14 A NUMBER OF THEIR INPUTS.

15 THE ONE ISSUE THAT I DO NEED TO BRING
16 FORWARD, THAT IS SIGNIFICANT DISCUSSION AT THE LAST
17 CCDEH SOLID WASTE POLICY COMMITTEE MEETING AT THE
18 BEGINNING OF THIS MONTH REVOLVED AROUND THE CEQA
19 ISSUE. AND THERE'S TWO SECTIONS RELATING TO CEQA
20 IN YOUR PACKET ON PAGE 9.7.

21 WITHIN THAT, SOME OF THE DISCUSSION
22 REVOLVED AROUND CEQA BEING PERHAPS BEYOND THE
23 CONTROL OF THE LOCAL ENFORCEMENT AGENCY, SINCE THE
24 LEAD AGENCY AT THE LOCAL LEVEL MANY TIMES IS NOT
25 THE ENFORCEMENT AGENCY, BUT THE PLANNING

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1 DEPARTMENT, AND/OR ANOTHER AGENCY DESIGNATED BY
2 THAT LOCAL JURISDICTION.

3 SO THAT WE WOULD EXPECT SOME COMMENT BACK
4 ON. AND THE CONCERN IS THAT AT THE BEGINNING OF
5 THAT SECTION, 18086, ON THAT PAGE INDICATES THE
6 BOARD MAY WITHDRAW ITS APPROVAL OF LEA DESIGNATION
7 WHEN THE BOARD MAKES ONE OR MORE OF THE FOLLOWING
8 FINDINGS.

9 AFTER CONSIDERABLE DEBATE, I POINTED OUT
10 THE FACT THAT THIS IS NOT A STAND-ALONE SECTION.
11 BUT THIS SECTION MUST BE CONSIDERED IN CONJUNCTION
12 WITH THE LAST SECTION IN YOUR PACKAGE, WHICH IS ON
13 PAGE 9.8, WHICH CONTAINS A NEW SECTION, 180.90.

14 THAT SECTION PLACES THE ENTIRE PROCESS OF
15 HOW TO NOTICE PUBLIC HEARING, ADMISSION OF
16 EVIDENCE, AND FINAL ACTION BY THE BOARD ON
17 WITHDRAWAL OF LEA DESIGNATION. WITHIN THAT, I
18 THINK SOME OF THE CONCERN THAT CCDEH INITIALLY HAD
19 WAS THAT THIS WOULD BE AN ARBITRARY DECISION BASED
20 ON BOARD STAFF, BASED ON THE LANGUAGE WITHIN THE
21 REGULATIONS.

22 BUT I JUST POINTED OUT, THIS SECTION IS NOT
23 A STAND-ALONE SECTION, BUT A COMBINED ARTICLE WHICH
24 INCORPORATES DUE PROCESS AND INCUMBENCY UPON THE
25 BOARD TO MAKE ITS CASE, TO BE ABLE TO PRESENT THAT

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1 BEFORE THE BOARD FOR ANY CONSIDERATION OF
2 WITHDRAWAL OR TEMPORARY WITHDRAWAL OF CERTIFICATION
3 OF THE LOCAL ENFORCEMENT AGENCY.

4 SO I DID WANT TO MAKE THOSE TWO
5 CLARIFICATIONS THAT THOSE WERE OF CONCERN. AND
6 STAFF IS PREPARED TO ADDRESS EACH OF THOSE
7 CONCERNS, SHOULD THE COMMITTEE MEMBERS WISH TO DO
8 SO.

9 MEMBER JONES: MR. CHAIRMAN, I HAVE A
10 QUESTION.

11 WHEN YOU GET TO 18086 AND YOU'RE DEALING
12 WITH THE UNEQUAL -- THE ISSUE I BROUGHT UP ABOUT
13 EQUAL TREATMENT, AND IT REFERS TO 43214, WHICH IS
14 THE ENFORCEMENT, WHICH WE TALKED THAT IT'S GOING TO
15 BE A PART OF THE EVALUATION, IS THE TREATMENT OF
16 THE PUBLIC VERSUS PRIVATE IN THE SAME
17 JURISDICTION. HOW OFTEN ARE WE ABLE TO HAVE AN LEA
18 EVALUATED?

19 MR. UNSELL: THE STATUTORY REQUIREMENTS ARE
20 MANDATORY THAT WE EVALUATE AT LEAST ONCE EVERY
21 THREE YEARS, OR AS FREQUENTLY AS THE BOARD
22 DETERMINES. SO THERE MAY BE INSTANCES IN WHICH
23 THERE ARE EVIDENCES PROVIDED TO THE BOARD STAFF
24 WHERE AN EVALUATION WOULD OCCUR WELL IN ADVANCE OF
25 THE THREE-YEAR PROCESS.

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1 MEMBER JONES: BECAUSE, YOU KNOW, WHEN WE
2 ADDED THAT LANGUAGE, IT WASN'T TO POLITICIZE AN
3 ISSUE, OKAY? IT WAS NOT -- DIDN'T HAVE ANYTHING TO
4 DO WITH THAT. IT HAD TO DO WITH THE FACT THAT, I
5 THINK AT THE TIME, 31 OUT OF 33 CHRONIC VIOLATORS
6 WERE PUBLIC ENTITIES. THREE WERE PRIVATE. YET WE
7 HAD SOME REAL ISSUES WITH TREATMENT OF FACILITIES
8 WITHIN JURISDICTIONS. AND CCDEH AND EVERYBODY
9 AGREED TO INCLUDE THE LANGUAGE IN THE EVALUATION OF
10 UNEQUAL TREATMENT IN CERTAIN JURISDICTIONS.

11 I'M JUST WONDERING, WHEN WE TALK ABOUT
12 DESIGNATION OR DECERTIFICATION OR THINGS LIKE THAT,
13 WHILE IT GOES BACK TO THE ENFORCEMENT STATUTE, DOES
14 IT NEED TO BE DUPLICATIVE SO IT'S NOT POLITICIZED?
15 YOU KNOW WHAT I MEAN? I DON'T WANT IT TO BE AN
16 ISSUE LIKE SAN DIEGO WHERE WE HAD THE COUNTY AND
17 THE CITY, AND WE HAD THIS POLITICAL FIGHT THAT TOOK
18 PLACE. AND IF -- YOU KNOW. I MEAN, I DON'T --
19 EQUAL TREATMENT NEEDS TO BE BASED ON FACT, NOT
20 POLITICAL WHIM.

21 AND I'M JUST WONDERING HOW WE DO THAT
22 WITHOUT, YOU KNOW, POLITICIZING. BECAUSE I DON'T
23 WANT TO LOSE THAT HAMMER. TO PUT IT IN PLAIN
24 ENGLISH, I WANT THERE TO BE SOMETHING OUT THERE
25 THAT SAYS TREAT THEM EQUAL. SOME ARE SO ABUSIVE TO

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1 THE MUNICIPAL FACILITIES AS OPPOSED TO THE PRIVATE,
2 IT'S PRETTY OBSCENE. IT KIND OF DEPENDS. MOST OF
3 THEM ARE PRETTY EQUAL EVERYWHERE. BUT WHERE YOU
4 NEED TO DRAW ATTENTION, I THINK WE NEED TO BE ABLE
5 TO DO THAT.

6 MR. UNSELL: I THINK I UNDERSTAND YOUR
7 ISSUE. AND I CAN ONLY SPEAK AT THIS POINT FOR THE
8 LAST EVALUATION CYCLE THAT WAS PART OF THE INTERNAL
9 STAFF'S WORKING CRITERIA TO SEE IF THERE WERE
10 DISPARITIES. AND IN SEVERAL EVALUATIONS, WE DID
11 IDENTIFY IN THEIR FINAL EVALUATION THAT THERE
12 APPEARED TO BE AND THERE WAS A WORK PLAN, AS WELL
13 AS ENFORCEMENT ACTION INITIATED TO ADDRESS IN THOSE
14 SPECIFIC JURISDICTIONS WHERE THERE WERE FACTUAL
15 IDENTIFICATIONS OF WHERE THERE WAS GLARING EVIDENCE
16 THAT THERE WERE ISSUES THERE, RATHER THAN BASED ON
17 OPINION, JUST AS YOU'RE SAYING.

18 IN TERMS OF THE NEW EVALUATION CYCLE, I'M
19 NOT ABLE TO SPEAK TO THAT. THAT'S UNDER SHARON
20 ANDERSON. BUT I'M ASSUMING THAT SHE AND HER STAFF
21 ARE CONTINUING THAT SAME PRACTICE. AND FROM WHAT
22 I'M UNDERSTANDING YOUR COMMENTS TO BE IS THAT
23 PERHAPS IT NEEDS TO BE DUPLICATIVE TO ADD AN
24 EMPHASIS TO THE LOCAL ENFORCEMENT AGENCY, THAT
25 INDEED THIS IS SOMETHING THAT THE BOARD IS GOING TO

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1 BE WATCHING.

2 I GUESS JUST TAKING THAT AT FACE VALUE, ONE
3 OF THE THINGS THAT COMES TO MY MIND IS WHAT WOULD
4 BE THE CRITERIA TO DISTINGUISH, AND WE WOULD NEED
5 TO DEVELOP CRITERIA STANDARDS OF HOW TO DETERMINE
6 WHETHER ONE HAS UNEQUAL TREATMENT, HOW IT DOES
7 NOT. THAT MAY BE SOMETHING THAT THE BOARD STAFF OR
8 THE BOARD WOULD HAVE TO UNDERTAKE THAT TYPE OF
9 THING.

10 THAT'S IRRESPECTIVE OF THE DUPLICABILITY OF
11 THE STATUTORY LANGUAGE AND THE REGULATORY
12 LANGUAGE. BUT THAT WOULD BE SOMETHING AS A FALLOUT
13 THAT WOULD NEED TO BE AS A FOLLOWUP TO REGULATION,
14 IF THAT WERE INCLUDED, TO CLEARLY SET FORTH THE
15 EXPECTATIONS, BOTH FOR THE OPERATOR, AND THE WASTE
16 BOARD, AND FOR THE LOCAL ENFORCEMENT AGENCY.

17 IN TERMS OF THE DUPLICABILITY AND THE
18 POSSIBLE LANGUAGE THAT COULD BE REGULATORILY PUT
19 IN, WE HAVE PREPARED SOME POSSIBLE ALTERNATIVES
20 THERE. AND PERHAPS LEGAL MAY WANT TO SPEAK TO
21 WHETHER THAT'S SOMETHING THAT WOULD -- WOULD THAT
22 BE DUPLICATIVE?

23 IN THE PAST EXPERIENCE WHERE WE SUBMITTED
24 OAL PACKAGES, I FOUND THAT THEIR OAL HAS BEEN VERY,
25 WELL, I'LL SAY INSISTENT THAT WE DON'T DUPLICATE

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1 STATUTORY LANGUAGE. AND THAT'S ONE OF THE THINGS
2 THAT THEY ARE LOOKING FOR.

3 IN FACT, THE REGULATION EXPLAINS AND
4 EXPANDS ON WHAT THE STATUTORY LANGUAGE MEANS, AS
5 OPPOSED TO RESTATING STATUTE. SO I DON'T KNOW IF
6 LEGAL WOULD CARE TO COMMENT ON THAT.

7 MS. TOBIAS: THE ONLY THING I'LL SAY IN
8 ADDITION, AND THIS IS NOT TO SAY THAT WE CAN'T FIND
9 A WAY TO PUT THIS IN, IS I HAVE SOME CONCERNS THAT
10 IF WE ADD THE SPECIFIC SECTION IN THIS SECTION OF
11 OUR REGS THAT TALKS ABOUT THE FACT THAT THIS IS ONE
12 CRITERIA, THAT IT MIGHT BE INTERPRETED IN THE
13 FUTURE THAT THIS IS THE ONLY PLACE THAT WE CARRY
14 THIS OUT, WHEN IN FACT, BECAUSE THE STATUTE
15 BASICALLY PERTAINS TO ANY ACTION THE BOARD TAKES,
16 WE CAN'T COUNTENANCE ANY UNEQUAL TREATMENT, THE WAY
17 THE STATUTE READS, IN ANY SITUATION, WHETHER IT'S
18 PERMITTING, TECHNICAL ASSISTANCE, CERTIFICATION,
19 WHATEVER, ENFORCEMENT, WHATEVER WE DO.

20 SO IT GETS A LITTLE COMPLEX TO HAVE
21 LANGUAGE IN THE REGULATION THAT BASICALLY SAYS IN
22 ADDITION TO THE BOARD HAVING THIS AUTHORITY, THIS
23 IS SPECIFICALLY A CRITERIAN HERE. SO I HAVE SOME
24 CONCERN. BUT I'M NOT SAYING THAT WE CAN'T WORK
25 SOMETHING OUT. I JUST WANTED TO DRAW THAT TO YOUR

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1 ATTENTION. DOES THAT MAKE SENSE?

2 MEMBER JONES: IT MAKES SENSE. WHAT I'M
3 TRYING TO AVOID HERE, AND IT'S GETTING BACK TO THE
4 POLITICAL STUFF, IS THAT WHEN AN ISSUE COMES
5 FORWARD, AND EVERYBODY IN THE ROOM, EVERYBODY AT
6 THIS BOARD, EVERYBODY IN STAFF, EVERYBODY IN THE
7 JURISDICTION KNOWS WHAT IS DRIVING THE ISSUE, AND
8 WE HAVE NO CONTROL OVER IT. OKAY?

9 WE HAVE NO CONTROL OVER CERTIFYING SOMEONE
10 TO BE AN LEA, FOR WHATEVER REASON, OR DECERTIFYING
11 THEM. AND I MEAN, SAN DIEGO COUNTY WAS A PERFECT
12 EXAMPLE OF IT. EVERYBODY KNEW WHAT THE ISSUES
13 WERE.

14 I WANT TO MAKE SURE THAT A CAO, OR A CITY
15 MANAGER, OR THE MAYOR, OR THE CHAIRMAN OF THE BOARD
16 OF SUPERVISORS UNDERSTANDS THAT AN LEA IS NOT THE
17 MECHANISM TO CONTROL FAIR MARKET PRICE OF LANDFILL
18 OR TIP FEES THROUGH CITATIONS.

19 AND I THINK THAT BY STATING IT SOMEWHERE
20 OTHER THAN REFERRING TO IT UNDER ENFORCEMENT, IT
21 GIVES THE LEA A TOOL TO BE ABLE TO GO WHEN THEY ARE
22 GIVEN ORDERS OR DIRECTION THAT WE CAN BE
23 DECERTIFIED IF WE DO THIS.

24 MS. TOBIAS: WELL, ONE OF THE THINGS YOU
25 MIGHT WANT TO CONSIDER, MR. JONES, THAT YOU ASK THE

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1 EXECUTIVE DIRECTOR TO DIRECT STAFF TO COME UP WITH
2 REGS THAT WOULD ADDRESS THIS AREA, WHICH MAY
3 INCLUDE ADDING SOMETHING TO THESE REGS, BUT ADDING
4 TO OTHER SECTIONS OF THE REGS AS WELL, WHERE THE
5 SPECIFIC INSTANCES ARE. WHERE YOU WOULD EXPECT TO
6 SEE EITHER A FINDING MADE THAT THERE IS NOT -- THAT
7 THIS IS NOT BEING DONE FOR THAT. SO THERE'S ALMOST
8 SOMETHING THAT HAS TO BE ANSWERED FOR. SOMETHING
9 LIKE THAT.

10 BUT I GUESS PURELY FROM A LEGAL STANDPOINT,
11 FROM A STANDPOINT OF WORKING WITH OAL, I THINK IT
12 MIGHT BE MORE CLEAR TO CONSIDER THE KIND OF ISSUE
13 YOU'RE TALKING ABOUT IN A SEPARATE SET OF REGS THAT
14 WOULD KIND OF GO THROUGH ALL OF OUR REGS AND SEE
15 WHERE IT IS THAT WE NEED TO IDENTIFY THAT.

16 IF WHAT YOU'RE SAYING IS TRUE, THAT THE
17 ISSUE IS KIND OF BEING AVOIDED BECAUSE NOBODY KNOWS
18 WHERE TO BRING IT UP, THEN PROBABLY THE OTHER AREA
19 I CAN THINK OF IS THAT IT KIND OF RUNS THROUGH THE
20 ENFORCEMENT ISSUES AS TO WHO IS CITED FOR WHAT
21 KINDS OF VIOLATIONS, OR WHO'S A CHRONIC VIOLATOR
22 AND WHO'S NOT, ET CETERA.

23 SO ALL I'M SAYING IS I HATE TO SEE THIS --
24 I'M JUST -- IT SEEMS LIMITED TO DO IT ONLY HERE.
25 IT SOUNDS LIKE WE NEED TO DO IT IN SEVERAL PLACES.

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1 AND I'M A LITTLE BIT WORRIED IF WE DO IT ONE PLACE,
2 AND IT DOESN'T GET ADDRESSED OTHER PLACES, MAYBE A
3 CASE CAN BE MADE THAT THAT'S OUR ONLY ALTERNATIVE,
4 TO DO IT IN DECERTIFICAION, AS OPPOSED TO THE FACT
5 THAT I THINK THE BOARD HAS THE AUTHORITY TO DO IT
6 ANYWHERE THEY SEE IT, IN ANY KIND OF INSTANCE.
7 CONTRACTS RECEIVED BY THE BOARD, LOANS. I DON'T
8 THINK THAT'S COME UP. BUT I CERTAINLY THINK IT
9 COULD.

10 MEMBER JONES: OKAY.

11 CHAIRMAN FRAZEE: OKAY. WE HAVE A SPEAKER
12 SLIP FROM PAUL MANASJAN. I'M HAVING TROUBLE WITH
13 THAT STILL, PAUL. ONE OF THESE TIMES I'LL GET IT
14 RIGHT.

15 MR. MANASJAN: GOOD AFTERNOON. MY NAME IS
16 PAUL MANASJAN. I'M THE MANAGER FOR THE CITY OF SAN
17 DIEGO SOLID WASTE LOCAL ENFORCEMENT AGENCY. I'D
18 JUST LIKE TO TAKE THIS OPPORTUNITY FIRST TO RESPOND
19 TO MR. JONES' COMMENTS.

20 I CAN ASSURE YOU, I WAS HIRED NOT -- AS LEA
21 MANAGER, NOT WITH THE INTENT TO MANIPULATE THE
22 LOCAL MARKETPLACE, BUT INSTEAD TO PROTECT PUBLIC
23 HEALTH AND SAFETY. AND THAT'S MY CONCERN. AND I'M
24 TELLING YOU THERE'S EVERY INDICATION THAT THAT WAS
25 THE CITY'S CONCERN TOO, WHEN YOU LOOK NOW AND SEE

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1 THE DEMISE OF SAN DIEGO COUNTY'S SERVICES WITH
2 REGARDS TO ENVIRONMENTAL HEALTH. SO WE CERTAINLY
3 DO HAVE LEGITIMATE CONCERNS.

4 MEMBER JONES: WHAT'S THE DEMISE OF SAN
5 DIEGO COUNTY'S ENVIRONMENTAL HEALTH?

6 MR. MANASJAN: THE COUNTY'S CUTTING BACK ON
7 SERVICES. THEY'VE LOST THEIR LEA DIRECTOR.
8 THEY'RE LOSING THEIR STAFF.

9 MEMBER JONES: THEIR BIGGEST CUSTOMER JUST
10 HIRED YOU. IT WOULD STAND TO REASON THAT EVEN IN
11 GOVERNMENT, THEY'RE SMART ENOUGH TO UNDERSTAND, IF
12 YOU LOSE HALF OF WHAT YOU GOT TO DO, YOU GOT TO
13 DOWNSIZE, RIGHT?

14 MR. MANASJAN: BUT IT'S NOT JUST WITH SOLID
15 WASTE. IT'S WITH HAZARADOUS WASTE, FOOD
16 FACILITIES. IT'S WITH ALL THE PURVIEW OF THE
17 LOCAL -- OF THE ENVIRONMENTAL HEALTH DEPARTMENT.

18 I'M JUST ASSURING YOU, I HAVE NO INTENTION
19 OF MANIPULATING THE MARKETPLACE THROUGH MY
20 PROGRAM. I TAKE MY JOB VERY SERIOUSLY. AND I
21 THINK ONE MIGHT PERCEIVE A SITUATION FROM THE
22 OUTSIDE. BUT THERE ARE OTHER POWERS IN LOCAL
23 JURISDICTIONS THAT UNDERSTAND THE NEED TO PROTECT
24 PUBLIC HEALTH AND SAFETY. AND THAT'S ALWAYS THE
25 UNDERLYING CONCERN.

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1 MEMBER JONES: I APPRECIATE YOUR COMMENTS.
2 YOUR INTEGRITY ISN'T IN QUESTION HERE. WHEN WE
3 WENT THROUGH THIS DECERTIFICATION, WE WERE ABLE TO
4 READ THE TRANSCRIPTS FROM THE CITY COUNCIL OF SAN
5 DIEGO THAT SAID BECAUSE THEY ARE SELLING THE
6 SYSTEM, THE ONLY WAY WE CAN PROTECT OUR INVESTMENT
7 IN THE LANDFILLS IS IF WE BECOME THE LEA.

8 NOW, I DON'T NEED TO LIVE SOMEWHERE TO
9 UNDERSTAND THAT THAT COULD BE INTERPRETED TO MEAN
10 YOU PROTECT IT THROUGH ANY MEASURE YOU HAVE. NOW,
11 THE ATTORNEY FOR THE CITY OF LEA SAID THOSE COUNCIL
12 PEOPLE MISSPOKE. THEY COULD NOT CONTROL WHAT THEY
13 SAID. BUT CLEARLY WHEN YOU HEAR IT, AND WHEN YOU
14 SEE IT, THEY WERE OF THE IMPRESSION, WHETHER RIGHT
15 OR WRONG, THEY COULD CONTROL LANDFILL FEES THROUGH
16 AN LEA.

17 I DREW THE CONCLUSION, AND DID IT IN
18 PUBLIC, THAT THE ONLY WAY THAT YOU CAN CONTROL
19 LANDFILL FEES THROUGH AN LEA IS THROUGH UNUSUAL OR
20 MULTIPLE CITATIONS OF VIOLATIONS. BECAUSE UNDER AB
21 59, WHEN YOU HAVE THREE VIOLATIONS STATED FOR THE
22 SAME THING, YOU HAVE THE ABILITY TO START ASSESSING
23 PENALTIES. SO IT IS A WAY TO EQUAL OUT THE TIPPING
24 FEE.

25 I'M NOT SAYING THAT THEY DID THAT. I'M NOT

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1 SAYING THAT AT ALL. WHAT I'M SAYING IS IT WAS A
2 GOOD DISCUSSION THAT WAS HAD BY ALL. THE CITY OF
3 SAN DIEGO GOT WHAT THEY WANT. EVERYBODY GOT WHAT
4 THEY WANT.

5 A YEAR PRIOR TO THAT, WHEN I FIRST GOT
6 HERE, I ASKED FOR EQUAL ENFORCEMENT TO BE PART OF
7 IT. AND IT WAS PUT INTO THE ENFORCEMENT BY ALL THE
8 BOARD MEMBERS, AND EVERYBODY IN THE AUDIENCE
9 AGREED. ALL THE LEAs, CCDEH, ENVIRONMENTAL HEALTH
10 DIRECTORS CAME UP AND SAID WE THINK THIS MAKES
11 SENSE. BECAUSE WE DON'T THINK THERE SHOULD BE
12 UNEQUAL TREATMENT. BECAUSE IT GOES BOTH WAYS.

13 SOME GO TO THE EXTREME OF HAMMERING
14 PRIVATES, OTHERS GO TO THE EXTREME OF HAMMERING
15 THEIR OWN MUNICIPAL OPERATIONS. IT'S A
16 DOUBLE-EDGED SWORD. AND THAT'S WHAT REGULATORS AND
17 POLICYMAKERS NEED TO BE AWARE OF. BECAUSE
18 SOMETIMES, ANYBODY THAT MANAGES ANY FACILITY,
19 WHETHER IT BE A CITY COUNCIL OR WHATEVER, LOOKS AT
20 THE RULES AND SEES, YOU KNOW, WHERE CAN I GO?

21 I JUST WANT TO MAKE SURE THEY DON'T GO HERE
22 AND PUT LEAs IN A POSITION WHERE THEY DON'T NEED TO
23 BE. THAT'S WHY I WANT TO MAKE SURE THAT THAT IS
24 ADDRESSED, SO THAT IF THERE ARE CASES OF UNEQUAL
25 TREATMENT, WE HAVE SOME AVENUE TO MAKE SURE THAT IT

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1 DOESN'T HAPPEN.

2 MR. MANASJAN: I CAN APPRECIATE THAT
3 CONCERN. AND I CAN ASSURE YOU, I WOULD NEVER WANT
4 TO BE PUT IN THAT SITUATION AS AN LEA MANAGER TO
5 HAVE THE POLITICAL PRESSURES PUT ON ME THAT I
6 CANNOT ENFORCE THE LAW EQUALLY AND FAIRLY. AND IF
7 THAT DAY CAME, I'D QUIT.

8 MEMBER JONES: AND I BELIEVE THAT. YOU'RE
9 A GOOD LEA. THAT'S WHY I SAID, THIS ISN'T ABOUT
10 ANY SPECIFIC LEA. THIS IS ABOUT THE FUTURE AND
11 RULES AND REGULATIONS.

12 MR. MANASJAN: OKAY. I APPRECIATE THAT.
13 I DO WANT TO MAKE A COMMENT ABOUT THIS CONCEPTUAL
14 DISCUSSION DRAFT THAT I'VE HAD AN OPPORTUNITY TO
15 LOOK AT.

16 IT IS OUR OPINION, THE CITY OF SAN DIEGO
17 LEA, THAT IT IS NOT READY FOR DISTRIBUTION. THERE
18 IS STILL A LOT OF CONFUSING TEXT IN HERE THAT I
19 THINK NEEDS TO BE LOOKED AT. TOM UNSELL MADE
20 REFERENCE TO A POINT, ONE POINT IN PARTICULAR WITH
21 REGARDS TO THE CEQA ASPECTS.

22 EVEN THOUGH HE SAYS THIS IS NOT A
23 FREESTANDING SECTION HERE, WHEN YOU READ IT, IT'S
24 JUST -- IT'S A FREESTANDING. THESE ARE THE
25 FINDINGS THAT THE BOARD WILL MAKE FOR WITHDRAWAL.

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1 AND ONE OF THEM IS, IF THE LEA FAILS TO PROVIDE
2 DOCUMENTATION WITH A PROPOSED PERMIT REGARDING THE
3 ADEQUACY OF CEQA.

4 SEE, IT WAS MY UNDERSTANDING THAT BASICALLY
5 THE BOARD WOULD NOT CONCUR ON THE PERMIT IF THE
6 APPLICATION PACKAGE WAS NOT COMPLETE. NOW IN
7 ADDITION, YOU'RE MAKING THIS A CRITERIUM BY WHICH
8 TO WITHDRAW YOUR DESIGNATION TO THE LEA. SO THAT'S
9 KIND OF A CONFUSING THING THERE. SO I THINK WE
10 NEED TO LOOK AT THAT.

11 ALSO, THERE'S REFERENCES MADE TO A
12 PROBATIONARY PERIOD. AND THIS IS THROUGH THE
13 IDENTIFICATION OF AN EVALUATION WORK PLAN, WHERE
14 SOMEHOW THE LEA IS NOTIFIED THAT THERE ARE SOME
15 DEFICIENCIES WITH THE PROGRAM, AND THEY'RE ALLOWED
16 TO PROVIDE SOME TYPE OF CORRECTIVE ACTION TO BRING
17 THEM BACK INTO.

18 NONE OF THAT LANGUAGE IS SPELLED OUT IN
19 HERE. AND I THINK IF YOU REALLY WANT TO HAVE A
20 COMPLETE PACKAGE, AND TO ALLOW FOR DUE PROCESS, YOU
21 HAVE TO SPELL OUT THE WHOLE PROCEDURAL PROCESS BY
22 WHICH YOU DO THIS WITHDRAWAL, AND ALLOW FOR
23 IDENTIFICATION OF A PROBATIONARY PERIOD WITH THE
24 STEPS INVOLVED IN THERE, AND SPELL OUT WHAT DO YOU
25 MEAN BY EVALUATION PLAN?

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1 WHEN YOU SAY THAT THE LEA HAS NOT SUBMITTED
2 AN EVALUATION PLAN FOR APPROVAL, IF REQUIRED BY THE
3 BOARD, YOU NEED TO SPELL OUT WHAT THAT IS, SO THE
4 LEA UNDERSTANDS WHAT THE RAMIFICATIONS ARE. WHAT
5 THEY NEED TO DO TO DO THEIR JOB TO MAKE THE BOARD
6 HAPPY SO THAT THEY CAN ADDRESS THESE ISSUES OF
7 POTENTIAL WITHDRAWAL DESIGNATION.

8 CERTAINLY THE BOARD DOESN'T WANT TO ASSUME
9 THE ROLE OF EA INDEFINITELY. THEY WANT TO BE ABLE
10 TO BRING THE LOCAL LEA INTO STANDARD, APPROPRIATE
11 LEVEL OF STANDARD, SO THAT THEY CAN DO THEIR JOB.
12 SO YOU NEED TO PROVIDE THAT IN THE PROCESS AS
13 WELL.

14 MEMBER JONES: MR. CHAIRMAN, CAN I
15 RESPOND? I DON'T KNOW WHAT SECTION YOU WERE
16 LOOKING AT, BUT WHERE IT DEALT WITH THE CEQA
17 ISSUES, WHERE YOU AS AN LEA HAVE CERTIFIED THAT
18 THIS PACKAGE IS READY TO COME TO THE BOARD FOR
19 CONCURRENCE, AND IF IT ISN'T, WE COULD DECERTIFY,
20 OR --

21 MR. MANASJAN: WELL, YOUR OTHER OPTION IS
22 YOU DON'T CONCUR ON THE PERMIT, RIGHT?

23 MEMBER JONES: WE HAVE A PROBLEM WITH
24 THAT. BECAUSE WE HAVE TRIED HARD TO GIVE MORE AND
25 MORE RESPONSIBILITY AND AUTHORITY OVER TO LEAs,

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1 RIGHT? WE'VE GONE THROUGH TRAINING. WE'VE GONE
2 THROUGH PARTNERSHIP 2000.

3 YOU'RE NOW GOING TO PUT A PERMIT TOGETHER
4 AND BASICALLY DOING WHAT THE STAFF HERE USED TO DO,
5 AND REALLY MAKING SURE EVERYTHING IS IN PLACE WITH
6 AN LEA AND WITH AN OPERATOR. YOU'VE TAKEN OVER
7 THAT ROLE. SO YOU'RE CERTIFYING THAT, YES, THIS
8 HAS MET THE STANDARD.

9 BECAUSE WE'RE ACCUSED ALL THE TIME OF JUST
10 BEING A RUBBER STAMP FOR PERMITS. EVERYBODY HAS
11 SAID THIS BOARD HAS NEVER SEEN A PERMIT IT DIDN'T
12 LIKE. THERE IS ONLY ONE REASON THAT HAPPENS. THAT
13 IS BECAUSE THE STAFF GETS A PERMIT TO A CONDITION
14 THAT WHEN IT'S AT THE BOARD, IT'S READY TO CONCUR
15 WITH. THAT'S WHY SOMETIMES SOME OF OUR PERMITS
16 HAVE STAYED AT STAFF FOR FIVE YEARS. NOT AT STAFF,
17 BUT YOU KNOW WHAT I MEAN. IT'S TAKEN A LONG TIME
18 TO GET THERE. BECAUSE THEY WOULDN'T ACCEPT IT.
19 THEY KEPT SAYING THIS ISN'T RIGHT. THIS ISN'T
20 RIGHT. DO THIS. DO THIS.

21 I REMEMBER PAUL RELIS AND I BEING UP HERE
22 WITH MR. FRAZEE WHEN THESE THINGS STARTED GETTING
23 TURNED OVER TO THE LEA, WE WERE WONDERING, WELL
24 DOES THAT MEAN THAT WE AS A BOARD MEMBER ARE GOING
25 TO SEE THE RDSI? ARE WE GOING TO SEE ALL THE

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1 SUPPORT DOCUMENTATION THAT AN LEA USED TO CONCUR
2 THAT THIS PERMIT WAS READY FOR US TO CONCUR WITH?
3 AND THE ANSWER WAS NO. WE'RE NOT GOING TO HAVE TO
4 GO THAT FAR. WE'RE GOING TO RELY ON THE LEA TO PUT
5 THAT TOGETHER. WE'RE GOING TO DO A CURSORY,
6 PROBABLY CURSORY IS TOO LIGHT OF A WORD, BUT WE'RE
7 GOING TO DO OUR CHECK TO MAKE SURE IT'S ALL IN
8 PLACE.

9 AND AS I UNDERSTOOD, THE TOOL TO ENSURE
10 THAT WAS THAT IF LEAs DIDN'T DO THEIR JOB, THEN
11 LEAs WOULD BE DECERTIFIED. THEY WOULD NOT HAVE THE
12 ABILITY TO DO THAT. THAT SEEMS FAIR, UNDER THAT
13 SCENARIO.

14 MR. MANASJAN: IT DOES FOR MOST
15 CATEGORIES. WHEN YOU'RE DEALING WITH ADEQUATE
16 ENFORCEMENT, PROTECTING PUBLIC HEALTH AND SAFETY.
17 BUT WHEN YOU TALK ABOUT ISSUES OF CEQA, AS YOU
18 MENTIONED, YOU RELY ON THE LEA. TOM MADE REFERENCE
19 TO THIS EARLIER. THE LEA RELIES ON THE LOCAL LAND
20 USE AUTHORITY. THEY MAKE A DECISION. MOST
21 CIRCUMSTANCES, THEY ARE THE LEAD AGENCY.

22 WE CAN'T SECOND GUESS THEIR DUTIES AS LEAD
23 AGENCY. THEY PRODUCE THE APPROPRIATE ENVIRONMENTAL
24 DOCUMENTS. WE COMMENT AS A RESPONSIBLE AGENCY.
25 BUT WHEN THAT BECOMES A CERTIFIED DOCUMENT, GOES

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1 THROUGH THE WHOLE CEQA PROCESS, WE CAN'T SECOND
2 GUESS THAT. SO IF THAT DOES EXIST, WE HAVE NO
3 RECOURSE BUT TO MAKE A FINDING THAT CEQA WAS
4 PREPARED.

5 THIS IS NOW YOU'RE EVALUATING -- IT'S KIND
6 OF CONFUSING. BECAUSE THE WAY THE VERBIAGE IS THAT
7 THE BOARD STAFF DETERMINES THAT THE LEA'S FINDINGS
8 REGARDING CEQA ARE INADEQUATE. BASICALLY YOU
9 JUST -- I'M NOT QUITE SURE I UNDERSTAND WHERE THE
10 INADEQUACY IS, AND WHAT SCALE IS THE BOARD USING TO
11 DETERMINE ADEQUACY OF A FINDING.

12 I MEAN, IF A CEQA DOCUMENT WAS CIRCULATED,
13 AND A NOTICE OF DETERMINATION WAS FILED BY THE LEAD
14 AGENCY FOR THE PROJECT, AND IT ADEQUATELY COVERS
15 THE CONCERNS, I MEAN, AGAIN, HOW CAN WE SECOND
16 GUESS, AND HOW IS THE BOARD GOING TO DETERMINE THAT
17 OUR FINDING WAS INADEQUATE?

18 THESE ARE THE ISSUES THAT I THINK WE NEED
19 TO LOOK AT A LITTLE MORE CAREFULLY. BECAUSE THE
20 WAY IT'S WORDED HERE, IT'S OPEN TO A LOT OF
21 INTERPRETATION. SO THAT'S WHY AGAIN, I SUGGEST WE
22 SPEND A LITTLE MORE TIME LOOKING AT THIS BEFORE IT
23 GOES OUT. BECAUSE IN THE LONG RUN, IT WILL SAVE A
24 LOT OF TIME. IF IT GOES OUT FOR REVIEW NOW, I
25 THINK THERE'S A LOT OF SHORTCOMINGS WITH THIS

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1 DOCUMENT.

2 MR. UNSELL: IF I COULD ADDRESS A COUPLE OF
3 ITEMS. MR. MANASJAN IS CORRECT THAT INDEED THIS IS
4 A STAND-ALONE SECTION IN AND OF ITSELF. AND THE
5 ITEMS RELATING TO CEQA DO REFER TO BOARD STAFF
6 DETERMINING THAT PERHAPS THE INFORMATION IS
7 INCORRECT.

8 HOWEVER, THE LEAD INTO THAT ENTIRE SECTION
9 INDICATES THAT THE BOARD MAY WITHDRAW. SO IT IS A
10 DISCRETIONARY. IT IS NOT A SINGLE AND SOLE ISSUE
11 AT ONE POINT IN TIME. BELIEVE ME, IF YOU GO
12 THROUGH THE LAST SECTION, WHICH IS THE PROCESS FOR
13 NOTICE FOR PUBLIC HEARING AND WITHDRAWAL OF US
14 NECESSARILY PROVIDING AND DOCUMENTING THE
15 INADEQUACIES AND THE STATUS OF COMPLIANCE AND PRIOR
16 BOARD ACTIONS, CIRCUMSTANCES SURROUNDING THE
17 ISSUES, AND THEN THE LEA BEING AFFORDED THE
18 REBUTTAL OPPORTUNITIES TO REBUTTAL ANY PRESENTATION
19 THAT THE BOARD STAFF MAY MAKE, BOARD STAFF IS NOT
20 ARBITRARILY AND INDEPENDENTLY GOING TO COME FORWARD
21 ON A SINGLE ISSUE, UNLESS THERE WAS A SIGNIFICANT
22 HEALTH AND SAFETY ISSUE OR SIGNIFICANT VIOLATION
23 WHICH GOES BEYOND STATUTORY CONTROL, JUST AS A
24 BRIEF EDIFICATION THERE.

25 IN TERMS OF THE ADEQUACY OR WHETHER THE LEA

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1 CAN SECOND GUESS CEQA, TYPICALLY MOST LOCAL
2 JURISDICTIONS THAT I'VE WORKED IN DO ACCEPT THEIR
3 LEAD AGENCY'S EVALUATION. HOWEVER, IT IS INCUMBENT
4 UNDER PRC REQUIREMENTS WITHIN THE BOARD AND THE
5 CERTIFICATION THEN FOR THE LOCAL ENFORCEMENT
6 AGENCIES AS A RESPONSIBLE AGENCY TO TAKE A LOOK AT
7 THOSE CEQA DOCUMENTS TO ASSURE THAT THE PROPOSED
8 PROJECT AND THE PERMIT APPLICATION MATCH, SO THAT
9 THE PROJECT PERMIT APPLICATION INDEED FALL WITHIN
10 THE PARAMETERS OF THE CEQA DOCUMENTS.

11 IF THEY DO NOT, THAT AGENCY, AS A
12 DISCRETIONARY ACTION, CAN PERFORM ADDITIONAL
13 ENVIRONMENTAL REVIEW, AND/OR REQUIRE THAT. AND I'M
14 NOT THE EXPERT ON THAT. BUT I KNOW KATHRYN CAN
15 ADDRESS THAT IN MORE DETAIL.

16 BUT THAT'S KIND OF THE CAPSULATION THAT
17 THERE IS THE ABILITY TO GO BEYOND, SHOULD THE
18 APPLICATION FOR SOLID WASTE FACILITY PERMIT NOT BE
19 IN ACCORDANCE WITH THE PARAMETERS SET FORTH UNDER
20 THE CEQA DOCUMENTS, WHICH ARE DISCLOSURE
21 DOCUMENTS.

22 MS. TOBIAS: FROM A LEGAL STANDPOINT, I
23 WOULD AGREE. I THINK MR. UNSSELL'S DONE A GOOD JOB
24 OF TRYING TO SHOW WHAT THE RESPONSIBILITY IS OF
25 RESPONSIBLE AGENCIES. AND I ALSO AGREE WITH WHAT

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1 MR. JONES SAID IN TERMS OF THE CEQA RESPONSIBILITY
2 AND HOW WE ARE DEALING WITH THE LEAs ON THIS.

3 MR. UNSELL: BUT THE BOARD TOO IS A
4 RESPONSIBLE AGENCY, IS IT NOT?

5 MS. TOBIAS: YES, WE ARE.

6 MR. UNSELL: SO YOU COULD FILE SUIT AGAINST
7 THE LEAD AGENCY ON THESE ISSUES.

8 MS. TOBIAS: WE COULD. AND JUST AS IF THE
9 LEA DOES NOT COMPLY WITH CEQA, WE ARE ALSO USUALLY
10 SUED ALONG WITH THE LEA FOR NOT COMPLYING WITH
11 CEQA.

12 MR. UNSELL: I HAVE A QUESTION TOO WITH
13 REGARDS TO CEQA. MY UNDERSTANDING TOO, CEQA CANNOT
14 HOLD UP THE PERMIT PROCESS, IS THAT CORRECT? WE
15 STILL HAVE TO PROCEED THROUGH THE PERMIT PROCESS.
16 WE CAN'T ISSUE A PERMIT. BUT IT WAS MY
17 UNDERSTANDING THAT THERE'S LANGUAGE IN LAW WITH
18 REGARDS TO CEQA THAT YOU MUST PROCEED THROUGH THE
19 PROCESS. IS THAT NOT CORRECT?

20 MR. DIER: THAT'S ESSENTIALLY CORRECT.
21 FAILURE OF HAVING A CERTIFIED ENVIRONMENTAL
22 DOCUMENT IS NOT A REASON TO DENY AN APPLICATION.
23 SO THAT PUTS THE LEA IN THE POSITION OF PROCESSING
24 AN APPLICATION AND TO MEET THE TIME LINES, MAY EVEN
25 MEAN PROPOSING A PERMIT TO THE BOARD PRIOR TO THAT

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1 CERTIFICATION OF THE DOCUMENT. BUT WHEN IT GETS TO
2 THE BOARD, THEN WE HAVE A DILEMMA. BECAUSE THE
3 BOARD, AS A DISCRETIONARY ACTION NEEDS THAT
4 DOCUMENT TO ACT ON THAT PERMIT.

5 MR. UNSELL: SO IN THIS CASE, THE LEA WOULD
6 BE FOLLOWING THE LAW, BUT WOULD BE SUSPECT TO THE
7 CRITERIA FOR WITHDRAWAL OF DESIGNATION?

8 MS. TOBIAS: I THINK THAT'S A FAIR
9 QUESTION. BUT I THINK THAT WHAT MR. UNSELL DID IN
10 WALKING THROUGH WHAT IS REQUIRED IN TERMS OF
11 PROCEDURE, IF YOU LOOK AT THE FINDINGS IN 18086,
12 ALL OF THEM HAVE SUBJECTIVITY. THE BOARD IS ALWAYS
13 GOING TO BE LOOKING AT WHETHER YOU'VE TAKEN
14 APPROPRIATE ENFORCEMENT ACTIONS. AND THERE MAY BE
15 A DISAGREEMENT OVER WHETHER THE LEA TOOK AN
16 APPROPRIATE ACTION OR DIDN'T TAKE AN APPROPRIATE
17 ACTION, JUST AS THERE MAY BE DISAGREEMENT OVER
18 WHETHER YOU FOLLOWED CEQA OR DIDN'T FOLLOW CEQA.

19 WHAT WE'RE REALLY LOOKING AT IS EITHER
20 CHRONIC TYPES OF VIOLATIONS, OR CHRONIC ACTION, OR
21 AN EGREGIOUS ACTION. SOMETHING WHERE IN ONE
22 CERTAIN CIRCUMSTANCE IT WAS SO CLEAR THAT THE LEA
23 HAD DECIDED NOT TO CARRY OUT THEIR DUTIES, THAT THE
24 BOARD CAN'T BASICALLY ALLOW THEM TO RETAIN
25 CERTIFICATION, PERHAPS JUST PARTICULARLY ON THAT

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1 CEQA RESPONSIBILITY. AND THAT'S WHY IT'S LISTED IN
2 THERE.

3 ONE OF THE OTHER REASONS THAT THE CEQA
4 RESPONSIBILITY IS CALLED OUT THERE IS I THINK
5 SOMETIMES THERE IS SOME CONFUSION AS TO WHETHER --
6 HOW CEQA WORKS, WHEN IT'S NOT IN OUR PRC. AND I'VE
7 HEARD PEOPLE SAY WELL, THAT'S A SEPARATE ISSUE.
8 YOU CAN ONLY REALLY DEAL WITH THINGS THAT PERTAIN
9 TO THE PUBLIC RESOURCES CODE IN TERMS OF THE
10 BOARD'S SOLID WASTE AUTHORITY, AND THAT'S NOT
11 ACCURATE. WE DO HAVE A CEQA RESPONSIBILITY, AND I
12 THINK THE BOARD TAKES IT REALLY SERIOUSLY.

13 WE'RE ACTUALLY IN HERE TRYING TO MAKE IT
14 VERY CLEAR SO THAT EVERYBODY'S ON NOTICE, THAT THIS
15 IS ONE OF THE THINGS THAT THE BOARD BASICALLY SEES
16 AS AN LEA RESPONSIBILITY.

17 MR. UNSELL: IF I COULD ADD ONE ITEM, JUST
18 A QUICK NOTE, AS THE COMMITTEE MEMBERS ARE WELL
19 AWARE, THAT WE'VE EMBARKED ON THE PRIORITY AREAS.
20 AND PRIORITY AREA THREE, WHICH INCORPORATES
21 FACILITY COMPLIANCE IMPROVEMENT, INCLUDES TARGET
22 FIVE, WHICH IS CLARIFICATION OF THE ROLES OF CEQA
23 BY THE BOARD, LEA, AND OTHER AGENCIES. THAT'S WHAT
24 WE'VE EMBARKED ON TO EDUCATE US ALL IN WHAT THOSE
25 ROLES ARE SO IT BECOMES MORE CLEAR.

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1 AS YOU CAN SEE FROM THE TESTIMONY TODAY,
2 THIS IS AN AREA IN WHICH THERE IS, PERHAPS, SOME
3 UNDERSTANDINGS WHICH CAN BE CLARIFIED THROUGH THAT
4 ENTIRE PROCESS. THAT IS WHY TARGET FIVE WAS
5 IDENTIFIED, AND PRIORITY AREA THREE, AS A
6 SIGNIFICANT ISSUE THAT NEEDS CLARIFICATION WITH THE
7 BOARD, LEA, AND OTHER AGENCIES FOR PROCESSING
8 PERMITS.

9 MEMBER JONES: MR. CHAIRMAN, STAFF, AS I
10 REMEMBER, I KNOW THAT I'VE HEARD IT THREE OR FOUR
11 TIMES UP HERE, THAT THERE HAVE BEEN ISSUES BROUGHT
12 UP THROUGH CEQA THAT WERE EITHER IN COURT OR
13 SOMETHING LIKE THAT WHERE OUR PROCESS COULD NOT
14 STOP, BY LAW, KEEP GOING. THE DETERMINATION OF
15 CEQA WILL DETERMINE WHETHER OR NOT THERE'S A
16 PERMIT.

17 SO THE FACT THAT WE ISSUE A PERMIT BASED ON
18 YOUR FINDINGS, I THINK WHERE I WOULD HAVE A PROBLEM
19 IS IF YOU KNEW THAT THERE WAS SOME CEQA ISSUES THAT
20 WERE LITIGIOUS, OR WERE GOING TO BE IN QUESTION,
21 AND YOU DIDN'T INFORM US ABOUT THOSE, AND THEN
22 THERE WAS NO -- LATER IT WAS PROVED TO BE
23 INADEQUATE, OR NONE OF THESE THINGS TOOK PLACE --

24 MS. TOBIAS: THAT WE DIDN'T HAVE AN
25 OPPORTUNITY TO FIX THE PROBLEM.

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1 MEMBER JONES: EXACTLY. THAT'S WHERE I
2 WOULD HAVE A PROBLEM, AND YOU SHOULD LOSE YOUR
3 CERTIFICATION. AND THEN YOU FOLLOW STATE LAW AND
4 FOLLOW BOTH CHARGES. I THINK THAT'S THE EASIEST
5 WAY TO EXPLAIN IT.

6 MR. UNSELL: I AGREE COMPLETELY WITH YOU.
7 AND WE NEED THAT TYPE OF LANGUAGE. MORE CLARITY IN
8 THIS DOCUMENT SO THAT WE UNDERSTAND EXACTLY WHAT
9 THAT IS. BECAUSE THAT MAKES SENSE TO ME. BUT THE
10 WAY IT'S WORDED HERE, YOU COULD INTERPRET IT MANY
11 DIFFERENT WAYS, FROM OUR DISCUSSION IS OBVIOUS.

12 MEMBER JONES: NOW, THIS STARTS 45 DAYS,
13 RIGHT?

14 MS. TOBIAS: YES. THAT'S WHAT YOU
15 APPROVED.

16 MEMBER JONES: SO THIS IS THE PROPER --
17 THIS IS THE PROPER STAGE FOR THOSE WRITTEN
18 COMMENTS, I THINK, TO COME INTO THIS, RIGHT? SO
19 IT'S ON THE RECORD. HERE'S THE STUFF, AND WE HAVE
20 ANOTHER PLAY TIME HERE IN 45 DAYS, OR 60 DAYS, AND
21 EVERYBODY GETS TO BRING OUT THEIR ISSUES AGAIN, AND
22 WE TWEAK THIS THING A LITTLE BIT MORE.

23 MR. UNSELL: AND I CERTAINLY CAN APPRECIATE
24 MR. MANASJAN'S REQUEST. I KNOW WE'VE BEEN
25 WRESTLING WITH THESE DRAFTS OVER THE LAST YEARS

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1 WITH THE LEAs AND TRYING, AND OUR INTERNAL STAFF,
2 IN TRYING TO GET THE BEST VERBIAGE FORWARD THAT
3 ADDRESSES THE MOST NEEDS.

4 BUT THIS REQUEST IS INDEED ONLY TO NOTICE
5 FOR THE 45-DAY COMMENT PERIOD, SO THAT ALL
6 REGULATED COMMUNITIES THAT WOULD BE AFFECTED BY
7 THESE POTENTIAL REGULATIONS HAVE INPUT, SO THEY CAN
8 REVIEW, SUGGEST COMMENTS, MAKE REVISIONS AND
9 REQUESTS.

10 WE ARE REQUIRED BY THE OFFICE OF
11 ADMINISTRATIVE LAW TO RESPOND TO THOSE COMMENTS AS
12 RESPONSE TO COMMENTS. AND INDEED, WHERE THEY CAN
13 FIT, AND THESE REGULATION PACKAGES CAN BE REVISED
14 AND MAKE IT A MORE CLARITY-TYPE DOCUMENT. THEN
15 INDEED, THAT'S THE WHOLE PURPOSE OF THE PROCESS.

16 THE 45-DAY PERIOD WOULD NOT BE STARTING
17 FROM NOW. THIS IS THE INITIAL PACKAGE TO GET THE
18 COMMITTEE'S CONCURRENCE TO GO OUT FOR A 45 DAYS.
19 WE WOULD STILL NEED TO PREPARE THE INITIAL
20 STATEMENT OF REASONS OR EYESORES, WHICH SUPPORT WHY
21 THESE CHANGES WOULD BE MADE. THAT THEN WOULD BE
22 FILED WITH OAL. AND I WOULD SUGGEST THAT WOULD BE
23 THE PLAY TIME OF 60 to 90 DAYS.

24 MEMBER JONES: OKAY. SOME OF THE THINGS
25 THAT MR. MANASJAN BROUGHT UP, I DON'T KNOW IF HE'S

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1 GOING TO REMEMBER THEM ALL. ARE YOU GOING TO BE
2 ABLE TO GET -- I MEAN, IS IT FAIR TO THINK THAT THE
3 THINGS WE'VE TALKED ABOUT TODAY ARE PART OF THE
4 COMMENT PERIOD? DO YOU KNOW WHAT I'M SAYING? USE
5 THE TRANSCRIPT OR SOMETHING TO MAKE SURE THAT SOME
6 OF THESE ISSUES ARE INCLUDED? NOT INCLUDED IN YOUR
7 WORK, BUT I MEAN, JUST IN YOUR SUPPORT WORK?

8 MR. UNSELL: CERTAINLY THEY WOULD BE WITHIN
9 OUR OWN DOCUMENTATION FILE AS OUR WORKING DOCUMENTS
10 AND SO FORTH THAT WE WORK FROM TO MAKE REVISIONS
11 AND TO ANALYZE THE SITUATION. IN TERMS OF THE OAL
12 PROCESS, THOSE WOULD NOT BECOME A PART OF THEIR
13 TRANSCRIPT.

14 MEMBER JONES: I DON'T CARE ABOUT THAT.
15 THE STUFF WE'VE BEEN TALKING ABOUT, YOU'RE GOING TO
16 HAVE. YOU'RE GOING TO GET A COPY OF THE
17 TRANSCRIPT, SO YOU CAN ADDRESS SOME OF THESE
18 ISSUES?

19 MR. UNSELL: THAT'S CORRECT. AND WE WOULD
20 ALSO ENCOURAGE ANY INPUT FROM ANY INTERESTED PARTY
21 TO CONTRIBUTE WRITTEN COMMENTS AND SUGGESTIONS
22 DURING THE COMMENT PERIOD. JUST DOING A QUICK
23 TALLY, THIS WILL BE GOING OUT TO A REGULATED
24 COMMUNITY OF APPROXIMATELY 650 TO 700 REGULATED
25 COMMUNITIES. THAT INCLUDES ALL LOCAL GOVERNMENTS

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1 AND ALL LEAS FOR INPUT. SO WE DO EXPECT
2 SIGNIFICANT INPUT.

3 MR. MANASJAN: THANK YOU VERY MUCH FOR YOUR
4 CONSIDERATION.

5 MEMBER JONES: MR. CHAIRMAN, I'D JUST LOVE
6 TO MOVE RESOLUTION 98-124, CONSIDERATION OF
7 APPROVAL TO FORMALLY NOTICE PROPOSED REGULATION
8 PACKAGE FOR THE WITHDRAWAL OF LOCAL ENFORCEMENT
9 AGENCY DESIGNATIONS FOR THE 45-DAY PERIOD.

10 CHAIRMAN FRAZEE: AND I WILL SECOND. AND
11 WITHOUT OBJECTION, WE'LL SUBSTITUTE ROLL CALL ON
12 THAT ONE. AND THAT DOES NOT GO TO THE BOARD.

13 MEMBER JONES: RIGHT.

14 CHAIRMAN FRAZEE: NOW, THIS GAME PLAN, WE
15 HAVE A PRESENTATION, PLUS A CLOSED SESSION.

16 MR. CHANDLER: I HAVE TALKED WITH STAFF.
17 UNLESS THERE'S SOMEONE IN THE AUDIENCE THAT
18 SPECIFICALLY HAS WAITED ALL MORNING TO HEAR ITEM
19 NUMBER TEN, WE CAN CARRY THAT ITEM OVER. IT'S JUST
20 A CONSIDERATION ITEM. IT'S AN INFORMATION ITEM.
21 WE CAN CARRY THAT OVER TO THE NEXT MONTH'S P AND E
22 COMMITTEE MEETING OR THE BOARD MEETING.

23 I WOULD LIKE TO ADD, HOWEVER, THAT SCOTT
24 WALKER HAS INFORMED ME, SINCE YOU PUT IT ON
25 CONSENT, THAT THE ANSWER TO MR. JONES' QUESTION

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1 RELATIVE TO COULD A 2136 FUNDING COVER TIRE
2 CLEANUPS? THE ANSWER TO THAT IS YES. SO SINCE YOU
3 PUT THAT ON CONSENT, I WANTED TO PUT THAT ON THE
4 RECORD.

5 AGAIN, IF THERE'S NO OBJECTIONS, YOU COULD
6 LET THIS ITEM GO. BECAUSE I KNOW YOU BOTH HAVE
7 MEETINGS AT 1:30, AND I HAVE THE DESIRE FOR THAT
8 CLOSED SESSION AS WELL. SO IT'S UP TO THE BOARD.

9 CHAIRMAN FRAZEE: YEAH. LET'S FORWARD ITEM
10 TEN TO THE BOARD. I THINK THERE ARE OTHER MEMBERS
11 WHO WOULD BE INTERESTED IN THAT PRESENTATION ALSO,
12 I THINK, AND THERE'S NO NEED IN MAKING IT TWICE.

13 MR. CHANDLER: SCOTT, WE WON'T MOVE IT TO
14 NEXT MONTH, WE'LL JUST MOVE IT TO NEXT WEEK, OR
15 WHENEVER THE FULL BOARD MEETING IS. OKAY?

16 CHAIRMAN FRAZEE: IF THERE IS NOTHING
17 FURTHER TO COME BEFORE THIS COMMITTEE, WE WILL BE
18 MOVING TO A FULL BOARD CLOSED SESSION, AND
19 FOLLOWING WHICH THE COMMITTEE WILL BE ADJOURNED.

20 MEMBER JONES: MR. CHAIRMAN, CAN I JUST
21 MAKE ONE QUICK COMMENT?

22 CHAIRMAN FRAZEE: SURE.

23 MEMBER JONES: I THINK THAT TODAY IS MY --
24 SOME OF YOU HEARD, I RESIGNED FROM ALL MY
25 COMMITTEES. I'M STILL ON THE BOARD. I'M NOT

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1 RESIGNING FROM THE BOARD. BUT BECAUSE OF
2 BAGLEY-KEENE AND SOME OTHER ISSUES, TRYING TO HAVE
3 THE ABILITY TO WORK WITH ALL THE BOARD MEMBERS, I
4 RESIGNED FROM ALL OF MY BOARD COMMITTEES.

5 AND I JUST WANTED TO SAY THAT THIS IS ONE
6 OF THE COMMITTEES THAT I'M REALLY GOING TO REGRET
7 NOT BEING ON. BECAUSE MR. FRAZEE, YOU ARE TRULY
8 ONE OF THE PROBLEM SOLVERS IN THE STATE, AND THIS
9 HAS BEEN FUN. AND STAFF HAS DONE A GOOD JOB, EVEN
10 THOUGH SOMETIMES I ASK QUESTIONS THAT THEY DON'T
11 WANT TO HEAR. BUT THAT'S A FAIR EXCHANGE. BUT
12 I'LL STILL BE AT ALL THE BOARD MEETINGS ASKING
13 EXACTLY THE SAME QUESTIONS. SO I JUST WANTED TO
14 SAY THANK YOU.

15 CHAIRMAN FRAZEE: THIS IS STILL ON THE
16 RECORD. THE PURPOSE OF THE CLOSED SESSION IS FOR
17 DISCUSSION OF PERSONNEL MATTER. AND THEN WITH
18 THAT, WE WILL GO INTO CLOSED SESSION, FOLLOWING
19 WHICH THE COMMITTEE WILL BE ADJOURNED.

20 (THE MEETING WAS THEN ADJOURNED AT 12:45
21 P.M.)

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REPORTER'S CERTIFICATE

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I, JAMIE LYNNE OELRICHS HEREBY CERTIFY:

That on the 16th day of July, 1998, I did
report in shorthand the testimony of the
foregoing proceedings;

that on the conclusion of the above
entitled matter, I did transcribe my
shorthand notes into typewriting;

that the foregoing transcript is a true and
correct record of my shorthand notes
thereof.

CERTIFIED SHORTHAND REPORTER

CERTIFICATE NO. 8086

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